

Planning and Zoning Commission Minutes

January 9, 2017

Meeting was held at the McKenzie County Courthouse in Watford City, ND and called to order at 5:02 pm.

Members present: Vawnita Best, Butch Fleck, Gene Veeder, Les Haugen, Kris Mrachek, Aaron Gravos, Jeremy Olson, Bethany Devlin.

Absent: Paul Wisness

Staff Present: Planner and Code Enforcement Officer, Jennifer Peglau; Planner, Shari Buck; Administrative Assistant, Lacey Fink, Building and Planning Director, Jim Talbert; GIS Coordinator, Aaron Chisholm.

Others: See sign in sheet.

Minutes of December 12, 2016 were presented. **Motion to APPROVE Minutes: Olson, Second: Best: Voice Vote: All Ayes**

Public Hearings:

Item 1: Workforce Housing Annual Review

Jennifer Peglau stated last year there were 15 non-compliant workforce housing on the agenda, there are now 5 remaining that aren't compliant. She asked the commissioners if they wanted to go down the list of the entire workforce housing or just go over the ones that weren't compliant.

Commissioner Olson stated they should just go through the ones that aren't in compliance.

Jennifer stated South 30 Meadows has no reclamation bond in and she talked to the vice president of the company and he was not aware that they needed a bond. She is hoping to work with them and get them in compliance and go from there.

Jim Talbert stated that South 30 Meadows looks clean and organized, maybe just work on their landscaping this spring and get their bond in as soon as possible.

Jennifer stated Synergy were approved for 23 units, they had 11 units out there. She is not sure what they're doing because they're bringing units in and out and moving them around all the time. The applicant thought he was safe because of the cash in lieu but applicant should be getting the bond to us within the next couple weeks.

Jennifer stated R&R was approved through Arnegard Township for 1 skid, the applicant will have to remove the others on property that is the only option and the applicant is ok with that and is currently working with us on getting the reclamation bond.

All three of these applicants are working with us to get compliant – South 30 Meadows, Synergy and R&R.

Commissioner Gravos asked if we need to motion the sunset clause.

Commissioner Fleck asked to be reminded what a sunset clause was.

Jim stated in the past before my time, we'd say we would renew them annually and sent out letters but never followed up after that, it is saying they are in compliance.

As of January 9th, 2017 the following workforce applicants are compliant:

Aries Residential Suites, Delta Constructors-0022-14, Fertile Fields, Newfield Exploration 0031-14, Delmer Rink 0008-14, Mohammed Neamah/A.L.L., True Oil/Sash 2 Sash, Nelson, Alan, Mountain Plains Properties, Construct Workforce Housing, J&A Services, Target Logistics, Red Rock Transport, Slaugh Fishing, Most Wanted Well Service, Dry Ground Specialist Inc, Easton Colorado, Black Frac Tanking, Line Finders, , OFT, McKenzie Investments, Richard Demers/Heart of the Bakken, Brockbank, and Tamarac.

No Audience Comments.

First Motion to APPROVE the Sunset Clause: Gravos, Second: Olson, Voice Vote: All Ayes.

Second Motion to APPROVE all the workforce applicants : Gravos, Second: Olson, Voice Vote: All Ayes.

Third Motion to bring back the 3 applicants who aren't compliant in 30 days - South 30 Meadows, R&R and Synergy to continue to be brought back to compliant: Best, Second: Fleck, Voice Vote: All Ayes.

Item 2: E & M Services LLC, Zone Change 0027-16 – the applicant is requesting a Zone Change of a five acre parcel from Agriculture to Light Industrial.

Jim stated the area the applicant is requesting a zone change a lot of the housing has been removed and doesn't see a problem changing the zone to light industrial.

Shari Buck stated that this area is in the transitional area.

No Audience Comments.

Motion to Approve: Olson, Second: Haugen, Voice Vote: All Ayes

Item 3: E & M Services LLC, 0026-16 – The applicant is requesting a Zone Change of a five acre parcel from Agriculture to Light Industrial.

Shari Stated the applicant would like a zone change from agriculture to light industrial and the land area is designated in the land use plan as a transitional area.

No Audience Comments.

Motion to APPROVE: Best, Second: Gravos, Voice Vote: All Ayes

Item 4: Joel Brown Zone Change 0028-16 – The applicant is requesting a Zone Change of approximately 20 acres from Industrial to Residential Rural Density (R-10A).

Shari stated the applicant is requesting a zone change and has approximately 20 acres, the land is in the transition area and applicant would like to keep his rural life style.

Jim stated it's an existing house.

No audience comments.

Motion to Approve: Olson, Second: Gravos, Voice Vote: All Aye

Item 5: Plains Terminal LLC, 0046-16 CUP – The applicant is requesting a Conditional Use Permit to build a small meter building.

Shari stated the applicant is going to use half an acre to cove the meters and it's an appropriate area for industrial.

Commissioner Olson asked if the ventilation area is going to be enough for it.

Bob (Robert) Harms (representative for Plains Terminal) stated it is standard procedure and the company has done these consistently.

Commissioner Best asked if this requires a building permit.

Jim stated it will not be heated or cooled so there is no need for a building permit and the electrical inspections will be through the state, not us. He also stated that it's a lease parcel and it's zoned as Agriculture.

Commissioner Gravos asked what the setback was from the Highway.

Shari stated 100 feet.

Commissioner Best asked Bob Harms if he or the applicant have any issues with the 6 conditions listed.

Bob Harms stated no, we are fine with the conditions and have no problems working with the staff.

No Audience Comments.

Motion to Approve: Fleck, Second: Olson, Voice Vote: All Ayes.

Item 6: 24th Street NW Residential Planned Unit Development Permit 0001-17 – The County is requesting a change from Industrial to a Planned Unit Development.

Shari stated the area is zoned as industrial and being used as residential and trying to bring what is in the comp plan and are with existing homes with 1-20 acres. The comp plan shows as Rural. The reason they are requesting a PUD is for the different acres of the existing parcels.

Jim stated we want these as Residential 5.

No audience comments.

Motion to APPROVE: Best, Second: Gravos, Voice Vote: All Aye.

Adjourned at 5:49 pm.

Planning and Zoning Commission Minutes

February 13, 2017

Meeting was held at the McKenzie County Courthouse in Watford City, ND and called to order at 5:02pm.

Members present: Paul Wisness, Vawnita Best, Butch Fleck, Kris Mrachek, Jeremy Olson, Bethany Devlin.

Absent: Les Haugen, Gene Veeder, Aaron Gravos.

Staff Present: Planner and Code Enforcement Officer, Jennifer Peglau; Planner, Shari Buck; Ari Johnson, County Attorney; Administrative Assistant, Lacey Fink.

Others: See sign in sheet.

Minutes of January 9, 2017 were presented. **Motion to recommend APPROVAL of the Minutes: Best, Second: Fleck: Voice Vote: All Ayes**

Unfinished Business:

Item 1: Williamson Properties – Applicant has not met conditions on CUP 0044-13 that was approved on October 22, 2013.

Jennifer Peglau stated the applicant has been in front of the board on September 13th, 2016, October 12th, 2016, November 14th, 2016 and December 12th, 2016. The applicants original bond amount was \$88, 500 which our office never received the breakdown from the engineer estimate but we approved that amount anyway to help speed up the process. Now the applicant is requesting his bond to be in the amount of \$24,000 for the removal and reclamation of twenty mobile homes. The removal would have to include the removal of the units, sewer to be cut and capped, electrical pedestals to be removed; units would need to be road ready and reclamation of the property. This price would not cover the cost. Also this doesn't fit with what other companies in the area have submitted to us. Jim Talbert and I do not accept this amount! On top of the removal of units there are multiple abandoned vehicles, RV's and miscellaneous items that need to be removed; it is not enough money to cover everything. At this time I recommend to revoke his permit.

Darwin Williamson, Applicant, stated he wants to point out that he has five RV's that aren't abandoned, not a dozen. He stated a lot of the stuff that are in the pictures that were presented to the commissioners has been cleaned up since the pictures were last taken and that it's not just junk on his property. He stated it's been a financial struggle and his intent is to liquidate most of the stuff on his property. He has people coming tomorrow to look at it all and that this isn't something that can just be done overnight. He stated he is choosing to liquidate if we force him off his property. Applicant requested if the commissioners would waive his bond and let him re-zone. He stated that the commissioners let Arrow Electric waive their bond and zone change for example.

Commissioner Best stated that Arrow Electric doesn't have any housing.

Ari Johnson, County Attorney stated with any land in violation, would require a bond; he'll still need to post some kind of bond.

Commissioner Mrachek stated that the applicant has had 3 years to get his reclamation bond.

Darwin stated he has been put in a financial burden, trying to re-coop and he is guilty of holding off getting a bond. Also states that this isn't how you should treat someone who is trying to make a living and business out here and after 35 years of marriage, his wife is divorcing him due to all the stress from his business.

Angela Saganek, stood before the commissioners stating she supports the applicant and everything he has done for herself and the residents at Almost Home. She stated she is speaking on behalf of herself and the residents at Almost Home. The applicant puts in a lot of effort to make everyone feel happy and comfortable and would not want him to lose everything he has.

Commissioner Best stated looking at the original \$88,500 engineer estimate and Jennifer did you say the second estimation for the bond came in lower? What were the reasons it significantly lower?

Jennifer stated it was a lower amount because they removed hydro seeding line item, but remember I never did see the original estimate with the breakout. There is no way the new estimate would cover the removal of RV's, vehicles and miscellaneous items and the capping of the sewer and seeding the land. She stated Bloom Enterprise for example, had less on their property and they had a bond for \$25,000 plus 150% for 10 units.

Commissioner Best asked with the lower estimate for the bond, it didn't include underground removal?

Darwin Williamson, Applicant; stated it did not but his brother could have it done in a day.

Jennifer stated with her reviewing the CUP's, a lot of them shouldn't have had a CUP; they should have had straight zone changes to support the land use. She stated that a few years ago they just had everyone apply for a CUP. So after reviewing the CUP's we have had many come in and come in front of the board for a zone change. There should have never been a CUP for Arrow Electric a zone changes should have been done in the first place.

Commissioner Best stated Commissioner Gene Veeder wasn't able to make it to this meeting but he made a comment to her that they've seen a lot of these issues and it's really hard. This board was elected by the people for the people. As much as she wants to support these applicants, it has definitely put them in a difficult situation.

Commissioner Olson stated that they have to have mechanisms in place to help save the county, he wants to be able to look back 10-15 years from now and see that we have cleaned up a mess now, rather than later.

Commissioner Fleck stated there was no recourse for the applicant and he moves to revoke this conditional use permit, if they need someone to make a motion.

No Audience Comments.

Motion to Revoke CUP : Fleck, Second: Olson, Voice Vote: All Ayes

Public Hearings:

Item 1: Tesoro Great Plains – Three Forks Addition – The applicant is requesting a Zone Change of a 33.28 acre parcel from Agriculture to Industrial.

Shari stated the applicant has a 33 acre parcel they would like to zone change from Agriculture to Industrial in the Johnson's Corner section. She stated it fits in with the comp plan and the staff recommends this zone change. The applicant has no future plans as of now.

Commissioner Olson stated the zone change is getting closer to the school and doesn't want it to be an issue later. He asked what the distance needs to be for industrial zoning from Johnson's Corner Christian Academy.

Shari stated it has to be at least 500 feet from the school.

There was a discussion about zoning around Johnson's corner. The Comprehensive Plan shows a buffer of commercial zoning between the heavy industrial and public purpose land. Also the commercial zoning is a buffer on every corner, which alleviates concerns of heavy industrial next to the corner, and to close to the school.

Paul Pansegrau with Golder Associates – Representative for applicant stated he believes the applicant eventually wants to put tanks up on the location.

No audience comments.

Motion to recommend APPROVAL to the County Commission: Olson, Second: Best, Voice Vote: All Ayes.

Item 2: Crushed Rock Sales – The applicant has not met conditions on CUP 0018-14 that was approved on April 15, 2014.

Jennifer stated the applicant was approved for a CUP on April 15, 2014. She has called the applicant multiple times, starting calling on December 15, 2016, has not heard anything back from the applicant. She finally contacted a supervisor on the 855# that was off their website. He gave me some contact information but was not much help because he is quitting and didn't care. He did state that the company is still in operation at this location.

Dennis Johnson, audience comment, stated he hasn't seen anyone since the fall and has called the Williston # and they told him that the guy that used to work in this area is now in jail. He stated that he himself personally has a bond with the applicant for \$7,500 but that isn't near enough.

Commissioner Best suggested if the best thing to do would be to send a cease and desist.

Jennifer stated issuing a cease and desist might be the best decision and maybe someone will contact us and if we don't hear anything by March we should revoke their CUP.

Ari stated it would be a good idea to start by sending the applicant a cease and desist and at least scare them.

Steven Rolla, audience, stated he didn't really have any input on the applicant but wanted to come hear what was happening and what was going to happen to proceed with the company.

Commissioner Best asked if they should make a motion or go ahead and just send the cease and desist to the applicant.

Ari stated he would like the commissioners to make a motion to support Jennifer for future instances.

No more audience comments.

Motion to recommend to send a Cease and Desist letter to applicant: Fleck, Second: Olson, Voice Vote: All Ayes.

Adjourned at 5:47 pm.

We were visited by the citizenship in the community merit badge boy scouts. They were there to get insight on how the community works to make improvements.

Planning and Zoning Commission Minutes

March 13, 2017

Meeting was held at the McKenzie County Courthouse in Watford City, ND and called to order at 5:02 pm.

Members present: Paul Wisness, Les Haugen, Vawnita Best, Kris Mrachek, Jeremy Olson, Butch Fleck, Gene Veeder (arrived at 5:18 pm)

Absent: Bethany Devlin, Aaron Gravos

Staff Present: Planner and Code Enforcement Officer, Jennifer Peglau; Planner, Shari Buck; Administrative Assistant, Lacey Fink; Building and Planning Director, Jim Talbert; County Attorney, Ari Johnson.

Others: See sign in sheet.

Minutes of February 13, 2017 were presented. **Motion to APPROVE Minutes: Olson, Second: Best: Voice Vote: All Ayes**

Unfinished Business:

Item 1: Crushed Rock Sales – Applicant has not met conditions on CUP 0018-14 that was approved on April 15, 2014.

Jennifer Peglau stated she talked about applicant last month and issued a Cease and Desist and sent a certified letter regarding the Cease and Desist and still has not heard a response from the applicant. She stated she recommends revoking applicant's CUP.

Commissioner Olson asked what we do in this case; padlock the entrance to the applicants business.

Jim Talbert stated we will let the applicant know their CUP is revoked and they can't do any business in the county and if they do, we are able to sue them.

No Audience Comments.

Motion to APPROVE Revocation of CUP: Olson, Second: Best, Voice Vote: All Ayes.

Public Hearings:

Item 1: Desiree Sorenson, Director of McKenzie County Social Services Zone Text Change 0001-17 – Applicant is requesting a text change to add Child Care Provider Categories to the definitions in the Zoning Ordinance, and to allow Licensed Family Child Care, Self-Declared, Providers, Approved Relatives, and Registered Providers as an allowed use in Agricultural Districts and Residential Zones. License Group Child Care, Licensed Child Care Centers, Licensed Preschools, and Licensed School age Programs are followed under certain conditional uses.

Shari Buck stated the Director of Social Services, Desiree Sorenson requests a text change to our ordinance regarding CUP's on Child Care. This adds new definitions in the zoning ordinance to allow Licensed Family Child Care, Self-Declared Providers, Approved relatives and Registered Providers to be an allowed use in Ag Districts and Residential zones, without having to get a Conditional Use Permit. This text change allows family providers care for 7 children with no more than 3 under the age of 24months, plus 2 additional school aged children.

Jim stated this will allow small providers an opportunity without having the financial burden of having to pay the \$750 for the CUP.

Desiree Sorenson, Applicant, stated she has discussed this change with Commissioner Kathy Skarda and Gene Veeder and they are on board of supporting this. She stated a lot of people have already been doing this without getting a CUP, just not the right way and this will allow them to be covered and follow the rules.

No Audience Comments.

Motion to recommend APPROVAL to the County Commission: Best, Second: Olson, Voice Vote: All Ayes.

Item 2: Targa Badlands LLC, Conditional Use Permit 0002-17, Applicant requests a Conditional Use Permit to turn an existing gathering pipeline into a transmission pipeline.

Shari stated the applicant is requesting a CUP on an already existing gathering pipeline into a transmission pipeline which requires a CUP. She has heard concerns from residents around the pipeline who are 390 feet from it. Specifically, Alice Christensen and Lael Abelmann.

Commissioner Olson asked if they were making any other changes besides changing the pipeline from gathering to a transmission. Also, if there will be any changes the land owners may notice.

Melissa Kilde, Applicant, stated there are no major changes, once oil enters the tank it has to go to outside producers at the site. For example, the pipeline from Johnson's Corner will deliver the oil to Alexander's site. She stated the homeowners will not see any changes to their land with making this change.

Commissioner Best asked how much pressure is going through the line.

Tim Stepstead from Targa stated 350 lb. – 650 lb. range.

Commissioner Olson asked what is the maximum amount of pressure that is allowed to go through the line.

Tim Stepstead, Applicant, stated 1,480 lbs. allowable pressure on the line.

Jim asked if there was a reduction in pressure with a transmission line.

Tim stated yes.

Ari Johnson, County Attorney, stated when you change to a transmission line, you have to present it to the residents surrounding it.

Alice Christensen, resident, stated she would have never built a house where she did if she had known there was going to be a transmission line.

Melissa Kilde stated that Alice did in fact know that the pipeline was already in place when she built her house.

This will be a discussion at the PSC meeting regarding the setback and no signing of a waiver from Ms. Christensen.

Commissioner Best asked is there more pressure as a transmission line than a gathering line.

Jim stated with a transmission line, there is less pressure going through the pipes.

Alice stated she doesn't know that they have less pressure and would have to research it for herself.

Commissioner Best asked what is the diameter of the pipe and is it efficient for the pressure and amount of oil going through.

Melissa stated it's the same size as a gathering pipeline – 8" steel pipeline rated for 1,480 lbs. She also stated that this needs to be presented in front of PSC on March 27th at 9am at Teddy's in Watford City to be approved also.

Commissioner Best asked if all the setback waivers need to be signed in order for us to approve the Conditional Use Permit.

Melissa stated it is just standard routine PSC has.

Jim stated turning the pipeline into a transmission line doesn't pose any difference; it is essentially the same pressure and is containing less lbs. than what it's made for.

Ari stated we advise caution to deny just for setbacks but ultimately PSC has to decide.

Commissioner Best asked what the construction difference would be.

Melissa stated there is no difference; the pipe is the same size at the gathering line – 8" steel pipe.

Tim stated the transmission pipe has to have internal inspections every 3-5 years.

Commissioner Olson asked if there's regular maintenance on the pipeline.

Tim stated yes.

Lael Abelman, audience comment, stated if putting a transmission line is essentially the same as a gathering line, why is there extra caution for a transmission line and it required to have a CUP and additional safety inspections. And asked if the commissioners know what the difference is between a transmission line and a gathering line.

Commissioner Best stated yes, ultimately it may go straight to PSC and not go through the County.

Melissa stated that if we were building a transmission line and residents are within 500 feet, we would need consent from the land owners; from her experience it is routinely given.

Ari stated it's not weird but not uncommon to make the change in the lines.

Jim stated it's frustrating as a County if it starts to strictly go through PSC and not through our commissioners as well. We feel more comfortable having a say in this.

Lael asked if there have been any troubles with the line changing over in the past.

Tim stated no.

Commissioner Haugen asked why not make a gathering line and re-permitting it.

Melissa stated with discussions with their attorneys and going through PSC, they provide the same information.

Russ Timmreck, audience comment, stated he is a rancher and the pipeline runs through his land. He states that making this change saves the applicant more money, right.

Melissa stated I assume so; I don't have knowledge in that area so I can't say for sure.

Russ stated, and common sense dictates everyone to approve this change.....He doesn't want this to be approved.

Commissioner Olson stated he doesn't know where he (Russ) is trying to get at.

Russ stated his original contract was for a gathering line not a transmission line.

Commissioner Best stated we are here to permit them, we need to be sure that houses or whatever it may be are not stacked on top of the line. She also stated that Russ should get to his point.

Russ stated it is none of the commissioners business to have a say to approve this change.

Ari stated the setback needs to be 500 feet.

Jim stated a requested CUP for transmission lines, there have been several approvals for this case and PSC enforces rules.

Motion to Recommend Approval to the County Commission: Olson, Second: Best, Voice Vote: Commissioners Haugen, Best, Olson, Veeder and Fleck Vote Aye; Commissioner Wisness voting Nay.

Break began at 4:51 pm and ended at 4:58 pm.

Item 3: West Coast Electric Zone Change 0002-17 – Applicant is requesting a zone change from agriculture to light industrial to allow a storage yard consisting of empty trash dumpsters and company trucks.

Jennifer stated the applicant is requesting a zone change from Agriculture to Light Industrial to allow a storage yard for company trucks and containers. It is within 500 feet from a residential dwelling. The land owner, Komron Hackabachi has approved this and it is compatible to our comp plan.

Commissioner Olson stated the storage is for electrical use and not trash.

Jennifer stated they did have a cease and desist and they have cleaned up, they do have some bins with trash but waiting to clean up to get approved. There is to be no trash to be stored on this parcel. Rita Olson did say they were in violation in the City ETA at their previous location.

Commissioner Olson asked if they applied for a CUP before you put a cease and desist.

Jennifer stated correct.

Jeff Harrison, Applicant, stated he is requesting the zone change to light industrial for storage of his containers and company trucks, there won't be any trash left uncovered without tarp.

Commissioner Olson stated there's a lot of cans on the ground of the property.

Jeff stated that the cans and trash were there before he brought his containers to that location, the snow had covered them and when he was plowing the snow it was all underneath it. He stated it has all been cleaned up, he only plans on using this land for storage of containers, company trucks and trailers.

Commissioner Best stated her first concern is trash blowing out of the containers and there is no fence around the perimeter of the property. She asked the applicant if he would be willing to put a fence up.

Jeff stated yes and that he has talked about doing that. He stated they are strapping tarp around the containers so no material can blow out but is not against fencing.

Commissioner Best asked if this use was used for light industrial allowed.

Jim stated yes.

Commissioner Veeder stated he was concerned about the surroundings around the property.

Jennifer stated it goes with the comp plan as all the surroundings is zoned as light industrial.

Tyler Swearson, neighbor of the applicant's property stated he has a lot of concern about empty trash bins and worried about erosion under the fence and household trash going into his yard. He would like to see something not so industrial next to him as evergreens.

Jim stated Just so you know there is a light buffer that is 10 feet wide and one of the requirements from the applicant is to plant trees.

Tyler stated he would like reassurance that this would occur.

Jim stated that Tyler is welcome to call and report any issues so we can get them resolved. He stated that we are here to help him and won't let this happen. He also stated that he can contact the applicant and try to resolve the problem and if not to give our office a call.

Jeff stated he would be willing to get together with Tyler for a plan and erosion and he plans on putting fabric down than rock so there won't be so much dust flying around.

Jim stated the applicant has come in and done electrical work on buildings and they provided everything we asked and with his experience the applicant has done everything he has asked of.

Commissioner Fleck asked the applicant if he can plant trees.

Jeff stated he doesn't have a problem planting trees.

Commissioner Olson stated that it is a requirement for light industrial.

Chairman Mrachek asked what are we giving him as a timeline to get the trees in.

Jim stated they need to be taken care of this year, by July they need to be planted and the applicant needs to bring in good soil for the trees so he doesn't have to replant.

No audience comments.

Motion to APPROVE: Olson, Second: Veeder, Voice Vote: All Ayes

Item 4: West Coast Electric Conditional Use Permit 0003-17 – The applicant is requesting a conditional use permit for the occasional storage of “full dumpsters” from the late or weekend pickups when the dump is closed.

Jennifer stated this property is adjacent from the zone change property we just discussed with West Coast Electric. Any After hours or any pickup during the weekend is to be covered or tied down with tarp to keep the materials from blowing and they cannot leave anything stored there for over 48 hours.

Commissioner Olson asked if this was off a county road.

Jennifer stated it is a private road.

Commissioner Fleck asked if there were any other businesses around this.

Jennifer stated yes and we are requesting a one hundred thousand dollar reclamation bond for this site to be on file.

Chairman Mrachek asked if we were requesting for this bond right away.

Jennifer stated the applicant has 30 days.

Jeff Harrison, Applicant, stated he has already begun the application process to get the bond.

Commissioner Best asked if putting a fence up will be a problem.

Jeff stated he doesn't have a problem with putting a fence up around the perimeter, he estimates it will cost him a lot of money, around sixty thousand.

Commissioner Best stated by the end of summer – September 1st applicant needs to have a fence up.

Jeff stated there is nothing hazardous in their dumpsters, mostly construction trash such as lumber, drywall, metal item, anything that comes from a construction site goes into their bins and they are covered with tarp.

Commissioner Veeder stated the applicant is a good commercial business for the county and very professional.

Jim stated the numbers of trailers set on property are moving out next business day.

Jennifer stated yes.

Jeff stated by Monday mornings they are hauling the containers from the weekend to the dump and they have 4-5 containers max during the weekend.

Jennifer asked if the applicant was ok for a cap of 10 containers.

Jeff stated to cap at 15 just in case.

Jim stated they issued a cease and desist and the applicant immediately came in and took care of it and thought Jeff was sufficient.

Commissioner Olson asked what the severity of the property was in to receive a cease and desist.

Jennifer stated we didn't want things to get out of control like it did when they had their business in the City.

Jeff stated in 2014 we were using property north of town and in February the county emergency response manager expressed her dislikes and concerns on the property. He stated he wasn't aware with the no parking on the property without a zone change. He stated Jennifer called him about a cease and desist and he had a meeting with our staff.

Commissioner Best asked how many containers were on the city lot before moving.

Jeff stated 70-80 total. He also stated he has a better understanding of what he can and can't do. He stated he gets paid to dump the containers and he doesn't want them sitting there full. They work 7 days a week and need somewhere to store the full containers when the landfill is closed.

Shari asked if they should add a 12th condition regarding putting a fence in.

Commissioner Best stated I think it's a necessity and may be the only one who thinks that.

Jim stated he'd like to see a fence put in by September 31st.

Commissioner Olson stated we don't want there to be trash flying around before the fence gets put up.

Jeff stated the containers placed on site will already have tarp tied on the bins from them going down the highway as they need to be covered while they are driving down the highway.

Jim stated every bin sitting there needs covering.

Jeff stated yes.

Shari asked if the fence should be 8ft. high.

Chairman Mrachek stated the higher the better.

Commissioner Veeder stated he wants the fence to be reasonable in height.

Chairman Mrachek stated the applicant needs to get after the fence soon and the higher the better.

Jim stated lets go with a 8ft fence, and it will be at the director's discretion.

Chairman Mrachek stated if there's a problem before the fence is put up, he wants it to go in front of the board.

Commissioner Best asked the applicant, Jeff if he is comfortable with adding the 12th condition of a fence.

Jeff stated yes.

Chairman Mrachek stated the fence should be put in by the 30th of September.

Jim stated the sooner the better.

No Audience Comments.

Motion to APPROVE with 12th condition adding a 8ft. chain-link fence by September 30th 2017 – And if there is any problem with trash before the fence is put in it needs to come before the board: Best, Second: Veeder; Voice Vote: All aye.

Adjourned at 6:45

Planning and Zoning Commission Minutes

April 10, 2017

The meeting was held at the McKenzie County Courthouse in Watford City, ND, and called to order at 5:00 pm by Vice Chair Jeremy Olson.

Members present: Bethany Devlin, Paul Wisness, Les Haugen, Vawnita Best, Jeremy Olson, Butch Fleck, Gene Veeder, Aaron Gravos.

Chairman Mrachek arrived at 5:02 pm.

Absent: none

Staff Present: Planner and Code Enforcement officer Jennifer Peglau; Planner, Shari Buck; Planning and Zoning Director Jim Talbert; County Zoning Attorney Ari Johnson.

Minutes from March 13, 2017 were presented. **Motion to Approve Minutes: Best, Second: Fleck. Voice Vote: All Ayes.**

Unfinished business: None

Public Hearings:

1. Sue Powers-Hartman, Conditional Use Permit 0045-17. The applicant is requesting a Conditional Use Permit for a water depot containing 5 frac tanks to be located in Sec. 12, Township 145N, Range 98W.

Shari Buck, Planner, gave the presentation. Ms. Powers-Hartman originally requested the CUP in November of 2016, but the application was tabled until certain conditions were met:

Jim Talbert stated the applicant has two regulations, the first is to meet with the state requirements concerned with the creek flowing naturally and second, the location needs to go back to its natural state, the applicant needs to add grading and at this time the applicant should be tabled. He also stated the applicant needs to have the site replanted to its natural state and to be reseeded. He recommends a bond be set in place for 2 ½ years for vegetation to hold and get back to how it was. **(November 14, 2016 McKenzie County Planning and Zoning Board Minutes)**

Shari stated that in reviewing the application and visiting the site, Ms. Powers-Hartman had met the requirements asked of her in November. The site has been regraded, and reseeded. The pond is no longer existing, and the stream has been returned to its natural course. [The Planning Department has a letter from the ND Office of the State Engineer stating the property is now in compliance.](#) Shari mentioned that she had received letters from two nearby landowners who had concerns mainly about the amount of water being taken from Charlie Bob Creek, and how it might affect them downstream. Shari reminded the board that the Planning and Zoning Board did not have purview over the temporary

water permits that were permitted through the state. The board only had the decision in zoning and planning matters.

Jim Talbert stated that this is a temporary Conditional Use Permit, since the State water permit expires July 31,2017. The applicant will then have to apply again for a temporary water permit, at which time it will be decided administratively, per the zoning ordinance.

It was also stated by Shari that the applicant must supply a \$10,000 construction bond before the water depot is constructed that would be in place for 2 ½ years to guarantee the reclamation to the natural landscape. There will be an inspection on or about June 30, 2017 to see if reseeding needs to be done again this season.

Commissioner Best asked if a condition could be placed that no trucking of water would be allowed; that water would need to be transported via a lay flat line.

Jim agreed, and stated that whoever wanted to transport the water would need to apply for a separate temporary water permit for the lay flat pipeline with the county.

Commissioner Veeder said that the concern about appropriate amounts of water being taken from creeks and streams had been brought up at the Water Resource District meeting. There is a worry about the use of the Charlie Bob Creek in particular, and these concerns have been passed along to the State Water Commission.

Commissioner Haugen asked if the State listens to those concerns. Commissioner Veeder mentioned that we have jurisdiction when the water flow is impeded, but the State Water Commission does not feel a need to address it.

Jim stated that he would echo the same concerns but our board can only address the use. It is metered out at a slow rate to try and mitigate the impacts, but he has a concern also.

Commissioner Best remarked that if you are a downstream user, there is an online registration process with the State.

Condition 10 Added: No trucking of water allowed. Lay flat lines only through additional approval.

Motion to recommend APPROVAL with the 10th condition to the County Commission: Olson, Second: Gravos. Vote was unanimous in the affirmative.

Item 2: Arrow Filed Services LLC 0001-17 Conditional Use Permit: Conditional Use Permit to construct a natural gas processing plant, a natural gas pipeline, and a natural gas liquids pipeline. The pipelines will be 2.6 miles within the same right of way; accompanied by accessory apparatus and facilities. The processing plant is located in Sec.21, T 149N, Range 98W. The pipelines run through sections 16,21,22,27,28,30,31,32 and 33.

Shari Buck made the presentation. Arrow Field Services LLC has applied for a Conditional Use permit to construct two pipelines with a gas processing plant. Staff has worked several months with Crestwood and Arrow Field Services to come to an agreement on the site plan, and we are satisfied that what has been proposed is a good plan. The site plan was changed to accommodate County Road 37, which has some dangerous bends and curves. Arrow Field Services has agreed to grant the County Right of Way in the future as a more amenable roadway design. Arrow Field Services will also be putting Mag Chloride on County Rd. 37 ¼ of a mile north, and ¼ of a mile south of their gas project site, per the conditions.

Commissioner Olson asked if all right of ways have been acquired.

Kelley Bryan, Senior Manager of Land Services for Crestwood, answered yes, all Right of Ways have been acquired.

Commissioner Fleck asked if County Rd. 37 will be paved.

Jim Talbert: No this is not in the Capital Improvement Plan for paving at this time. We knew at the time that there are several 90° bends, and we expressed our concerns to Crestwood-Arrow Services. They've been in contact with the landowner on the southern end and feel positive about obtaining the Right of Way. Speeds will go up, and 500 foot are an absolute minimum. He's spoken with the County Engineer, Suhail Kanwar, who concurs that a 500 foot radius is acceptable.

Commissioner Best: How did you determine dust control at ¼ of a mile?

Jim: This is a standard that is consistent with what we have required of others.

Commissioner Best: How many trucks will you have daily?

Dean Volesky, Director of Operations from Crestwood/ Arrow Field Services stated that there will be approximately 20-30 trucks per day.

Motion to recommend APPROVAL to the County Commission: Veeder, Second Olson. Vote was unanimous in the affirmative.

Item 3. Dakota Meadows Subdivision- The County is requesting a zone change from an Agricultural District to R-1 Residential District, to bring a subdivision into compliance with the Comprehensive Plan.

Shari Buck made the presentation. This subdivision was developed several years ago, was platted and recorded, but the zoning was never completed. The subdivision consists of three phases: I, II and III. The owner of phase III contacted the county to ask that the zoning be done, and the county agreed to bring it into compliance with the Comprehensive Plan.

Jim stated this also solves problems because in an Agricultural District the setbacks are more onerous , and it does solve the problem with being in sync with the Comprehensive Plan.

Commissioner Gravos asked is this zone change included Phase III.

Shari answered yes.

Ryan Borkowski, HOA Pres. At Dakota Meadows stated that he's contacted the County Road dept. several times about the county road leading to their subdivision, and in his opinion, it needs more maintenance. If we are going to be zoned residential, we should have more maintenance on that road. It is an extension of County road 23 to their subdivision.

Jim stated that regardless of whether it zoned Ag or R-1, it doesn't affect the maintenance of the road.

Ryan asked since they are going to be an R-1 zoning, does this mean they will have access to rural water?

Jim: Typically there is a substantial cost to bring a rural water line, and it depends on the amount of customers in the area. Jim suggested they check with Jeff Shafer, Rural Water Director.

Maria Borkowski asked how long they have to exist as a residential subdivision before the county will take over the roads within the [subdivision?subdivision?](#)

Jim stated that the County does not maintain private roads, and that it is the HOA's responsibility, as well as the residents to work that out. The developer understood that when he developed.

Maria: Do we have a say if it is R-1 or R-2?

Jim: R-1 is an appropriate zoning for your subdivision. You mainly are on 1 acre lots, because this protects you from a higher density development that would be allowed in R-2. Plus in R-2, you would be required to bring rural water and other utilities in, which would be a great cost.

Commissioner Best: In subdivisions, internal roads are required, and they are the responsibility of the developer. We work hard to keep our mill levy low so that you may be able to contract those services you need in your subdivision such as road work etc.

Motion to recommend APPROVAL to the County Commission : Olson, Second: Best. The motion passed unanimously in the affirmative.

Item 4: 4T Construction 0004-17 ZC. 3.86 acres from Agriculture to Light Industrial to support the existing shop. 5.31 acres from Agriculture to R-3 to support the existing workforce housing.

Jennifer Peglau made the presentation. She stated that these properties are in ~~compliance,compliance~~ and coming forward to zone change the parcels to more appropriate zoning for the uses. Mr. Gully has a great facility and should be held up as a standard of what a light industrial and R-~~3-workforce3~~ workforce housing complex should look like. The spacing between the units is perfect, and the road wraps around the shop, keeping the housing secluded.

Jim Talbert stated that this is the cleanest property in Section 125. John has done an outstanding job. He has kept a separation between industrial and ~~housing-housing~~. Is the plan to remove the RV's and only have trailer homes?

John Gully: The plan is to replace the RV's over the next two years with modular homes. The spacing will be correct. The units will be 60' X 14'. It will be clean and nice.

Commissioner Olson: Are these units for single men?

John: We have a small amount of families who still live here, but they are slowly moving into houses in town. These are primarily for workforce that come from out of state.

Jennifer: John is here at my request to get the housing totally separated from the light industrial uses.

Motion to recommend APPROVAL to the County Commission: Wisness, Second: Olson. Motion passed unanimously in the affirmative.

Planning and Zoning Commission Minutes

May 8, 2017

The meeting was held at the McKenzie County Courthouse in Watford City, ND, and called to order at 5:00 pm by Chairman Mrachek.

Members present: Paul Wisness, Les Haugen, Kris Mrachek, Jeremy Olson, Butch Fleck.

Absent: Vawnita Best, Bethany Devlin, Aaron Gravos, Gene Veeder

Staff Present: Planner and Code Enforcement officer Jennifer Peglau; Planner, Shari Buck; Planning and Zoning Director Jim Talbert; County Zoning Attorney Ari Johnson.

Minutes from April 10, 2017 were presented. **Motion to Approve Minutes: Olson Second: Haugen. Voice Vote: All Ayes.**

Code Violations: Jennifer Peglau gave a status report that we are at 100% compliance for our CUP bonds.

Unfinished business: None

Public Hearings:

1. Arrowwood Development, Zone Change 0005-17. The applicant is requesting a Zone Change of a 2.43 acre parcel from Industrial to Commercial.

Shari Buck, planner gave the presentation. Arrowwood Development has parceled off two lots totaling 2.3 acres for the purpose of having a commercial business. This zone change is supported in the Comprehensive Plan, and staff recommends approval.

Jim Talbert, Planning Director, stated that the landowner has worked hard in cleaning up the land.

Jennifer Peglau, Code Enforcement Officer, stated that the RV Park on the remaining land remains grandfathered.

Eric Kirby, from Kirby Engineering, was there to represent the owners. There were no questions from the commission.

Motion to recommend APPROVAL of 0005-17 Arrowwood Development Zone Change to the County Commission: Olson, Second: Wisness. Vote was unanimous in the affirmative.

2. Proposed Medical Marijuana Ordinance

Jim Talbert presented the ordinance for discussion. Because four of the planning commissioners were not able to attend the meeting, this is a discussion item tonight, and it will be brought back again at the next meeting, June 12th, for possible approval.

Jim stated that the Legislature passed a Medical Marijuana bill which will go into effect July 1, 2017.

The bill allows for two growing facilities, and eight distribution centers which have not been identified yet. We were instructed to have a zoning ordinance to accommodate the bill, no matter how we feel about the law. We've limited the ordinance to zoning issues.

The ordinance is pretty straight forward with distance requirements from residential dwellings and schools and public use facilities. Surveillance cameras will be placed outside, around the perimeter. Distribution centers can be located in Light Industrial or Industrial Districts. Cultivation can be indoors in Ag, Light Industrial or Industrial Districts.

If there is a dispensary approved near here it will most likely be in the town of Watford City, and Watford City would have to have their own ordinance.

Commissioner Butch Fleck asked if the State has already set up where distribution centers will be? Also, where did we get the language from this ordinance?

Jim stated that we don't know where the distribution centers will be located yet. And the language was taken from other ordinances already in use in California, Nevada, Arizona, New Hampshire and Colorado.

Commissioner Mrachek asked if the State has already approved the final draft of the bill? An audience member stated that the Governor has already signed the bill.

Commissioner Olson said that the language is pretty restrictive.

Jim answered that the purpose is not to prevent the approved bill, but to make it safer in our communities by having a comprehensive ordinance in place. Concerns are that it is a cash business, and could be a target. If the State follows its own rules, it is very solid. We can modify our ordinance if we need to in the future also if it is not meeting our needs.

Commissioner Wisness: Can we zone it out?

Jim: No, it is the law

Commissioner Olson: Does it require a CUP?

Jim: Yes, renewed annually. It also requires a fee to cover additions costs of inspections and policing. We have not put those numbers together yet, but we will come back to you in the future for that discussion.

Commissioner Olson: Is the fee separate from the ordinance?

Jim: Yes, the fee would be published separately.

Commissioner Wisness: Does the law cover everything from planting to distribution?

Jim: Yes. Growing, manufacturing, processing facility, distributing are all regulated by the State.

The additions to the proposed ordinance in section 4.16.3 were read by Mr. Talbert. Additions were "site inspections" and "storage of media".

Commissioner Mrachek: What is storage of media?

Jim: Storage of recordings of surveillance pictures from outside of facilities that must be stored for viewing by authorities.

Jim read in changes to section 4.16.4 (10). "Repeals the Compassionate Care Act or the act is otherwise declared void." If the law changes, we can remove the Conditional Use ability.

Commissioner Olson: Is it still a federal offense? How is it that State law can trump federal law?

Jim: President Trump has said the federal law may be challenged. It does cause some concerns in the State Attorney's office.

Commissioner Wisness: How does the State determine who receives the permits?

Jim: This is the State's decision. The State has a stringent set of standards. If I were guessing, I would think the cultivation would be rural, with the dispensaries in larger towns. Our ordinance will be distributed to other counties for use if they wish. Most don't have staff on hand, and it will make it easier if we have similar ordinances.

Jim read the changes in 4.16.6. (1). Adding the language "and have a minimum six (6) foot high perimeter fence encompassing the parcel boundary". (2) "Measured from the exterior fence". (3) "Measured from the exterior fence". (5) Adding: Further, everything within the fenced area shall have 24 hour surveillance cameras depicting the entire exterior of the Compassion Center as well as cameras at the property entrance depicting vehicles and license plates of each vehicle entering the parking lot.

Adding (14): All surveillance camera locations and surveillance recording equipment including specifications must be approved by the County Planning Director.

Adding (15) All applicable state standards and requirements shall apply in the design and operations of any Compassion Center.

Commissioner Olson: Is there anywhere in the ordinance that states that it is still a federally illegal use?

Ari Johnson: Yes, section 4.16.1 (1) states that it remains illegal under federal law. Our purpose in proposing this ordinance is to have a zoning ordinance in place to protect the County.

Gary Nottestad, Citizen: I've been in the County since the late 70's. I have researched this issue for over a year and a half. The US government actually has a patent for helping stroke victims with cannabis from early in the 1900's. It does help with cancer and the NFL is using it for traumatic brain injuries. Marijuana is an herb that God put on the earth. The government is working with Pharmaceutical companies to keep us from using it for good. Will there be a distribution center in town?

Jim: We don't know yet where they will go.

Gary Nottestad: It would take 36 acres to comply with spacing.

End of discussion on Med. Marijuana Proposed Ordinance

Motion to dismiss: Olson Second: Haugen

Meeting adjourned at 5:40 pm

Planning and Zoning Commission Minutes

June 12, 2017

Meeting was held at the McKenzie County Courthouse in Watford City, ND and called to order at 5:00pm.

Members present: Paul Wisness, Butch Fleck, Jeremy Olson, Bethany Devlin, Gene Veeder, Les Haugen (5:07pm), Kris Mracheck(5:20pm)

Absent: Vawnita Best, Aaron Gravos

Staff Present: Planning Director Jim Talbert; Planner and Code Enforcement officer, Jennifer Peglau (on the phone); Planner, Shari Buck; County Attorney, Ari Johnson; Administrative Assistant, Sierra Garmann.

Others: See sign in sheet.

Minutes of May 8th, 2017 were presented. **Motion to recommend APPROVAL of the Minutes: Veeder. Second: Wisness: Voice Vote: All Ayes.**

Unfinished Business: Medical Marijuana Proposed Ordinance.

Jim Talbert stated that this has been discussed previously, and since four planning commissioners were absent, no motion was made. If we do nothing we will not have a say in what happens in the county. It's dealing with the land use in the county if it comes here. There will be eight distribution centers in the state. Companies will have to apply with the state. Distribution of medical Marijuana will happen in populated areas. Growing facilities will have strict requirements with how it will be grown, transportation, and distribution. We will only get a say in land use. This proposed ordinance was sent to Ari Johnston, Todd Schwartz the State's Attorney, and Aaron Birst, NDACO Attorney. No changes were made since last month.

Definitions will be kept the same as the state has them set. Permit fees will be set to help compensate for added inspections, patrolling. It is a Cash business- banks will not work with them because it is a cash business and is still illegal at the federal level. Conditional use permits will also be required; do not want to over step with the requirements from the state. To keep area clean, growing facilities will be under Ag, industrial, and light industrial. Distribution will be industrial or light industrial.

Commissioner Veeder asked if we had consulted with Aaron Birst to be consistent with other counties.

Jim stated that he gave them ours with the intent that our ordinance will be available to other counties.

Commissioner Olson asked if this does not apply to other townships that we have no control over.

Jim stated that Olson was correct only to townships that we have joint agreements with; everyone is open to our copy.

Commissioner Veeder commended Jim for stepping up, working through this ordinance for McKenzie County, and that he is comfortable that Jim can answer any other questions.

No Audience Comments.

Motion to APPROVE : Veeder; Second: Fleck; Voice Vote: All Ayes.

Public Hearings:

Item 1: County 20 Storage and Transfer- Zone Change 0006-17 of 5.1 Acres Sunrise Estate.

Planning and Zoning Commission Minutes

June 12, 2017

Shari Buck, Planner, gave the presentation. They are asking for a change in Zoning to make it more compatible for the workforce housing. The housing has a Conditional Use Permit, and it is in compliance. We are recommending approval.

Jim stated that the applicant wants to change the zone use.

Commissioner Olson asked if there were any comments from the public.

Jim stated that the public wanted to pass

Commissioner Fleck: Any Change?

Jim: Try to change the zone application existing use/ they have CUP and are in compliance.

Commissioner Olson: Open to the public.

Commissioner Fleck: motion

Commissioner Veeder: Second

Motion to recommended APPROVAL: Fleck; Second: Veeder; Voice Vote: All Ayes.

Item 2: Blaine Hovland Variance 0001-17 10.6 acres.

Shari Buck made the presentation of the application for the variance for Blaine Hovland. They have a home on the parcel, but don't meet the 40 acre requirements. They will be replacing the old farmstead with new.

Jim: This does not fall completely in zoning. Separate the parcels, so there will not be two homes on the same parcel. I've gone back and forth/ do not meet the ordinance but doesn't hurt the Ag land. We have had other parcels that have been denied.

Commissioner Olson asked why they would issue a variance if they are replacing the home.

Jim stated that want the parcel created to meet the state requirements for septic, which is 1 acre parcel.

Commissioner Veeder asked if Jim had asked this of the applicant.

Jim stated that he had. "This isn't a slam dunk but they have the right to ask for a variance but it may be denied.

Commissioner Olson: Is this Ag land are they farming it or was it just bought?

Jim: No- parents bought parcel.

Ari: What is the foundation, are they changing it?

Jim: Yes.

Ari: Does this make a difference?

Jim: It doesn't make a difference

Planning and Zoning Commission Minutes

June 12, 2017

Commissioner Fleck: This is what we want for the future family so that the kids come back, so not to change the parcels.

Commissioner Haugen: This is for family; take down old for new is what we want.

Jim: In favor of replacing old for better but the issue is that there is already a home on the parcel. We do this on a regular basis.

Jennifer Hovland, stood before the commissioners stating that her parents had gifted them two acres.

Commissioner Olson: Any issues with subdivision?

Jim: We would want to create an IT minimum of 1 acre so that the house will meet the setback requirements

Shari: Will this stay in parent's name?

Jim: not required to give up land, this is just for tax purposes.

Commissioner Fleck: Is this going to get us into trouble with the 40 acre setback?

Jim: That is always a concern- don't feel that they are trying to circumvent.

Commissioner Olson: Intent to keep speculation from coming in and flipping.

Jennifer Peglau: Can it be used against us?

Commissioner Veeder: Motion

Jennifer Peglau: We did deny an application for the Johnsons, we need to be consistent throughout.

Jeremy Olson: We do not want to set perimeters on a variance. We want to look at them on a case by case basis.

Motion to recommended APPROVAL: Veeder; Second: Devlin; Voice Vote: All Ayes.

Item 3 Mitch and Kevin Sondrol: CUP 0004-17 Reopen Scoria pit.

Shari: This is an application to re-open Scoria Pits on father's land. A Conditional Use Permit is needed on Ag land. They have completed their application, including receiving approval from the Weed Board. Before they sell any scoria, they must have certification of clean scoria from the weed board. Also, the reclamation bond for the land they are using is \$6000.00 per acre. This is a standard price that was estimated and used on other scoria pits.

Kevin Sondrol: One question. 6000.00 for a bond is steep. Father sold some land to the county for \$2,000 per acre. There is no junk in there and we're not making a mess. That's too steep.

Jim: The bond is significantly less than the cost so the land can be reclaimed. Natural appearance, contours, seedlings, etc

Planning and Zoning Commission Minutes

June 12, 2017

Jim: This is consistent with other with other Gravel Pits we have. It would be unfair for us to change yours with a different price. It all has to do with the reclamation to bring the land back.

Jeremy: This is our insurance policy if the county has to come back in to re-claim.

Shari: Has to be in place for 30 days and no approval until it is place.

Kevin: This is too high!! You only paid my Dad \$2000.00 per acre.

Les Haugen: Cost is \$140,000 an acre for an average oil site; cost to reclaim it.

Jeremy: Do you wish to withdraw the application?

Kevin: No

Denton Zubke: (Adjacent Land owner) SE & Downstream, everything comes down to him eventually. 3 Topics he wants to discuss:

Reclamation: stick with the Bond/Policy. Mounds of dirt on property, wants to make sure it gets back to its natural state. It is a substantial amount of money to reclaim the land when they stop taking scoria.

Ordinances: monitoring for noxious weeds, they come in his direction.

Water and land erosion: Wind erosion, regularly try and monitored, had issues with water erosion with the previous owner- sure they have something in place. Not asking to deny the permit but want to make sure that they follow everything and that there is monitoring of dust, water, and of the weeds.

There was also some activity going on in the spring (May). I don't believe these pits have been dormant.

Jim: If there was a problem, we want to know about it. Weed control would first approach landowners. County would then spray, at the cost to the landowners if it is not taken care of. They need to create retention on site for erosion control.

Jim: If there has been digging prior to today it would be a violation and they should be denied.

Butch: Have there been other problems in the past?

Jim: There was a site where they had an illegal RV Park, but I want to keep these two items separate.

Denton Zubke: Ask the owner if he has been operating?

Mitch Sondrol: I've been hauling scoria out there for personal roads. I plan on spraying for weeds. We plan on taking care of it. We'll abide by your rules.

Kris: Is this a violation:

Jim: I would tell someone they can dig on their own property. I don't think it's a violation.

Mitch: We've stayed away from the property line.

Jim: I want you to watch the run off from the water.

Planning and Zoning Commission Minutes

June 12, 2017

Mitch: I will

Jennifer Peglau: The previous operator, CMG did not have their bond in place, therefore the CUP was in violation.

Motion to recommended APPROVAL: Olson; Second: Fleck; Voice Vote: All Ayes.

Item 4 Black Gold Contractors : Zone Change 0007-17

Shari presented the application for a Zone Change from Ag to R-3 to remove their workforce housing from the Southern parcel, and place it on the Northern Parcel with the appropriate zoning. Later, the applicant will be in with a zone change application for the southern parcel to Light Industrial where the current shop is located. This separates the housing from the commercial uses of the business. They will have to have a reclamation bond for the workforce housing.

Jennifer: I have been working in Arnegard Section 25 for quite some time, and Black Gold has been very good to work with.

Motion to recommended APPROVAL: Olson; Second: Veeder; Voice Vote: All Ayes

Meeting was adjourned at 6:15 pm.

Planning and Zoning Commission Minutes

June 12, 2017

Planning and Zoning Commission Minutes

August 14th, 2017

The meeting was held at the McKenzie County Courthouse in Watford City, ND, and called to order at 5:00 pm by Chairman Mrachek.

Members present: Bethany Devlin, Les Haugen, Vawnita Best, Kris Mrachek, Jeremy Olson, Gene Veeder, and Butch Fleck.

Absent: Paul Wisness and Aaron Gravos.

Staff Present: Planner and Code Enforcement officer Jennifer Peglau; Planner, Shari Buck; Planning and Zoning Director Jim Talbert; County Zoning Attorney Ari Johnson; Administrative Assistant Sierra Garmann

Minutes from June 12, 2017 were presented. Motion to Approve Minutes: Olson Second: Haugen. Voice Vote: All Ayes.

Code Violations: None

Unfinished business: None

Public Hearings:

8. **Elkan Inc. Conditional Use Permit 0007-17.** An application for an expansion of a freshwater depot, 10". 2.5 mile freshwater pipeline, and 16" 3.2 mile freshwater pipeline located in Sec 13, T 150N, R 98W.

Shari Buck, Planner gave the presentation. This is a freshwater pipeline and expansion of existing water depot. All requirements have been met, and staff is recommending approval.

Commissioner Olson: Is this depot and pipeline on your land?

Kyle Hartel with Elkan Inc: Yes, and also the State School land. There are some concerns on how we will exit school land, but we need approval from the County first, and then will work it out with the state.

Motion to recommend APPROVAL of CUP 0007-17 : Veeder, Second: Olson. Voice Vote: All Ayes

1. Text Amendment to Zoning Ordinance

Jim Talbert, Planning and Zoning Director, stated that they had mistakenly pulled off oil and Gas storage out of Agriculture in the Zoning text. They would just be putting it back into the text for CUPs.

Ari Johnson, County Zoning Attorney, stated that we just need to stay being consistent which we have been doing.

Jim Talbert: We annually go back and re-adopt zoning ordinances again.

Motion to recommend APPROVAL Text Amendment to Zoning Ordinance: Olson, Second: Best. Voice Vote: All Ayes

2. Lunderby Trucking CUP 0005-17 . A conditional Use Application to allow the re-use of formerly used workforce housing at 3145 Highway 23, Watford City.

Shari Buck, Planner, gave the presentation. They are currently zoned industrial, on this property they have a shop, Fuel Island, and at one point had workforce housing. Lunderbys wants to reopen the workforce housing. There are concerns about the close range of the housing to the fuel tanks. We also have received comments pertaining to the Lunderby Trucking CUP.

Jennifer Peglau, Code Enforcement officer, stated that they were at one point grandfathered in but since that the grandfather has been broken because it has not been in use for one year.

Jim: We are Recommending denial.

Shari: Blue Buttes held a board meeting and is also recommending denial.

Steve Lunderby, owner of Lunderby Trucking, stated that housing is very short and the back and forth to and from Watford would be more cost efficient to their employees.

Commissioner Olson stated that we have been consistent in not allowing workforce housing in an industrial area. I would not be in favor.

Dean Brown- Blue Buttes Town Supervisor stated that he doesn't believe it's a good place even for trucking. Worst place to have housing because of the disruption.

Jennifer: There is some Vesta housing available out near you.

Commissioner Haugen asks 500 ft. is housing supposed to be from the tanks.

Jim: Workforce housing in industrial should be limited. This site Clean Energy has been a problem before I got here. What Lunderby is doing is allowed just not housing.

Paula Brown: The trucking here is already very noisy, coming and going all hours. We don't want a repeat of Clean Energy. Greg Tank has other land to the south which would be more appropriate for this kind of thing away from homes.

Commissioner Veeder: Have we ever gone against a township's recommendation?

Commissioner Olson: Arnegard

Jim Talbert: Very few times. We have gone against Arnegard but it is very rare.

Commissioner Veeder: You'd have to have a solid reason to go against?

Commissioner Olson: The Township knows the area better.

Ari: You would need a rational, reasonable decision to go against the township but there is no particular rule to waive.

Motion to recommend DENIAL to Lunderby Trucking CUP 0005-17: Best Seconded: Butch Voice Vote: All Ayes

- 3. Aggregate Construction CUP 0006-17:** A Conditional Use permit application to re-open a formerly existing gravel pit at 15546 36th St. NW Cartwright.

Shari Buck presented Aggregate Construction. Aggregate construction wants to reopen; they were never closed down all the way in Cartwright. They currently meet all the requirements, everything is in place. Jim had issued them a 60 day permit.

Jim Talbert: Since there was no meeting in July I had issued them a 60 day permit for work on County Road.

Commissioner Best asked Max Schriote with Aggregate if they have any issues with the CUP Permit.

Max with Aggregate Construction answered no.

Commissioner Veeder reminds them that they need to keep the dust down and the weeds cleaned up.

Jim Talbert also stated them that tarps are part of the requirements.

Commissioner Haugen stated that he has been seeing a lot of tarps that aren't secured down enough on the backs of trucks.

Motion for Approval for Aggregate Construction CUP 0006-17: Fleck, Second: Veeder
Voice Vote: All Ayes.

4. **Pamela and Chris King Zone Change 0009-17.** An application for a Zone Change from Agricultural to Light Industrial located in Sec 12, T 149 N, R 99W. Parcel 651000100.

Shari Buck made the presentation. Pamela and Chris King applied for a Zone Change permit to go from Agriculture to light industrial to add a shop. They are in a mixed used transition area. We are recommending approval, everything is cleaned up.

Audience comments

Mike Hietsmith stated that he was very impressed with the cleanup that they had done.

Motion for APPROVAL for Pamela and Chris King Zone Change 0009-17: Fleck Second: Veeder
Voice Vote: All Ayes.

5. **ND-OK Holdings/ Roscoe Streyle Zone Change 0010-17.** An application for a Zone Change from Agricultural to Light Industrial in Sec 25, T 150N, Range 100W, Arnegard.

Shari Buck presented ND-OK Holdings/ Roscoe Streyle Zone Change. ND-OK Holdings applied for a Zone Change permit to go from agriculture to light industrial to establish land use because the property is for sale, and in a mixed used area. They are not planning to put anything on the land.

Commissioner Fleck: Do we know what is going to be put on the land?

Jim Talbert: Anything that is Conditional use will need to come back.

Commissioner Olson: They will need a building permit.

Motion for APPROVAL on ND-OK Holdings/ Roscoe Streyle Zone Change 0010-17: Olson, Second: Best, Voice Vote: All Ayes.

6. **Drakin Oilfield Const. Zone Change, CUP 0034-16**

Jennifer Peglau presented Drakin Oilfield, has a modular home and a shop. Everything else has been removed and shop now has a certificate of occupancy. They are in a transition area, the zone change is

for the shop business and CUP for housing. Please notice we did not ask for a reclamation bond due to the modular home being real property.

Jim stated that there was RVs on site when they had purchased. Came and found out that they could not have them, home was there prior.

Commissioner Haugen asked if there were RVs on-site.

Jennifer answered back with yes, 2 being stored.

Commissioner Best asked what the separation between the house and the shop?

Jennifer: 300 feet and no hazardous materials in the shop.

Commissioner Best asked Anita if she had any issues with the conditions.

Anita representing Draken Oilfield answered no.

Motion for APPROVAL on Draken Oilfield Const. Zone Change, CUP 0034-17: Best, Second: Olson, Voice Vote: All Ayes.

- 7. Bridger Pipeline Zone Change, CUP, Comp 0008-17.** The application is for a Conditional Use Permit for storage of crude oil in 20,000 barrel tanks. Located at 11195 30th St. NW Watford City.

Shari Buck presented Bridger Pipeline application, 20,000 barrels of crude oil in storage tanks in Agriculture district. We missed putting in the text ordinance allowing a conditional use in Agricultural district of bulk storage. Will be connected to their pipeline. We are recommending approval, upon meeting their bond obligation.

Jim stated that the Zone change and Comprehensive Plan text amendment were noticed in case the Zoning Ordinance text change previously adopted on this agenda was not approved. This language was added because of the over sight of the text ordinance to cover all bases.

Commissioner Haugen asks if Blue Buttes Township was okay with everything.

Shari answered back that she had not heard from Blue Buttes.

Commissioner Best asks how many truck trips a day will be going out there.

Cameron Tomjack with Bridger Pipeline answered back that it will just be a few guys going out there a couple times a day just to be checking on the tanks.

Commissioner Best asked if there are any issues with the requirements.

Cameron answered back no.

Motion for Approval on Bridger Pipeline Zone Change, CUP, Comp 0008-17: Veeder, Second: Best, Voice Vote: All Ayes.

8. Robert Ward Zone Change

Jennifer Peglau, Code Enforcement Officer gave the presentation. The zone change would be from agriculture to light industrial to establish land use for the sale of the property. There was a prior conditional use permit to cover workforce housing, that housing has been removed closing the conditional use permit. Has a shop on the land also is in a transition area.

Commissioner Best asks if there are any violations on this land.

Jennifer answered that there aren't any more violations on the land.

Jim stated that this has been one of the cleanest sites in section 2 and that they have worked hard to clean everything up.

Motion for APPROVAL on Robert Ward Zone Change: Best, Second: Olson, Voice Vote: All Ayes.

Meeting adjourned at 5:50 pm

Sept 11th, 2017 Planning and Zoning Board Meeting Minutes

Unfinished Business:

There is no unfinished business.

Public Hearings

#1 Petro Hunt CUP 0009-17

Petro Hunt four miles North and West of Hwy 68.

Purchase Water Pond- Water tanks for servicing well site-Only their sites.

Haugen: Are you using lay flat lines? **P.H. Rep:** No

Haugen: Will you have trucks there? **P.H. Rep:** Yes

Jim: Condition #4 Petro Hunt has to apply MAG Chloride for dust control. **P.H. Rep:** No problem.

P.H. Rep: Location of water pit is on a pad.

Jim: How many trucks? **P.H. Rep:** We can't be sure.

Jim: Are you willing to apply dust control to entire area around pad? **P.H. Rep:** Yes. Our nearest neighbor is about a mile and a half and nothing is changing but the load area.

Jen will email conditions to Petro Hunt representative.

Commissioner asked if there were any comments or questions from the audience. There were no comments or questions.

Jim: In inclement weather county roads are often closed, this will apply to your company as well.

P.H. Rep: We understand.

Jim: Will there be any more drilling? **P.H. Rep:** At this time nothing new.

*No more comments or questions.

Motion to: Approve By: Jeremy Olson Second: Kris Mracheck Voice Vote: All Aye

#2 Belle Fourche CUP 0010-17

Change an existing 6" crude oil gathering pipeline, approximately 5 miles long within McKenzie County, to a transmission pipeline.

Haugen: Are the land owners aware of the changes?

Yes, any residents within 500 meters are made aware. No changes are anticipated.

In our county it looks like it is all on federal land. Not sure if it is.

Fleck: Is pressure going to change? Yes but not significantly.

No comments or questions from the audience.

Motion to: Approve By: Gravos Second: Fleck Voice Vote: All Aye.

#3 Brandon Helfrich CUP 0011-17

Request for a new water depot just west of Dickens Depot. Will be using Poseidon tanks.

Jim: One condition is we will want MAG chloride applied to the road for dust control.

Helfrich: OK

Best: Don't CUPs have to be renewed?

Jim: Yes, all CUPs go through annual renewals.

Fleck: Can fire district have access to the water depot?

Helfrich: Yes

Jim: Bond needs to be in place before start. **Helfrich:** That's fine.

Jim: Also the bond needs to cover the tanks. **Helfrich:** Yes

Haugen: Do you own all the land there? **Helfrich:** Yes, I purchased it last fall during the auction.

Haugen: Has all the land been surveyed out? **Helfrich:** Yes 93 acres.

Best: comments she believes Dixon came before the board so they must have zoning check Dec., Jan., and Feb of 2015 Dixons or J2K and also check in on Marmons (S&G) they came before the board too.

No comments or questions from audience and no further questions from the board.

Motion to: Approve By: Haugen Second: Gravos Voice Vote: All Aye

#4 Kevin Brunet ZC-0012-17

Kevin Brunet wants to rezone from Agriculture to Commercial, to establish land use for the sale of his property. Permits will be required for any new buildings.

Jennifer: Owner has cleaned up lot, received the certificate of occupancy, and now here for the zone change. Applicant hired a contractor and was under the impression it was all taken care of by the contractor.

Best: commented about highway corridor overlay and higher design standards.

Jim: replied this was there already and we are just trying to work with what is there. It is surrounded by industrial gas plants. Kevin wants to legitimize use.

Olson commented that now that the owner wants something he tries to clean up.

Jennifer asked if Kevin Burnet was present. Kevin was not.

Best: Concerned with legitimizing something that is already on terms and it is only partially visible from the highway.

Mracheck: Need we say anyone on a county road 34 will be paying for some of the costs of road improvements?

Jim: Yes, Kinder Morgan paid half a million dollars for the improvements to the road there.

Jim: If there is new building they will have to follow the highway overlay standards.

Questions or comments from audience:

Westbrook: If he wants to change from Ag to commercial to sell, when he sells it will it come with new conditions?

Jim: No the conditions go with the land not the land owner.

Olson: It is already being used for commercial, just need to change the zoning to fit what is already there.

No more comments or questions

Motion to: Approve By: Olson Second: Best Voice Vote: All Aye

#5 Text Change in AG district to allow Outdoor Shooting Range as a Conditional Use

Jim: Gun Range. Was approached about six months ago, they are looking to move the gun range.

–Have found new land to build on.

–It would be conditional use not allowed use.

Commission Comments:

Jim: We can't allow gun ranges to go anywhere. The facilities would be a service to the community but they are jittery about CUP. The gun range in Arnegard is law enforcement use only.

Jim: It is conditional not allowed. This particular site they have chosen has natural hills that can block it off.

Best: We need some sort of trigger, what are other communities doing?

Jim and Ari: We haven't looked into that.

Best: We'll need a large buffer.

Fleck: Do the landowners understand that?

Jim: He had been working with the landowners.

Olson: What about fire control? Dry grass, if something sparks a fire than what?

Gravos: That will be part of the CUP.

Audience comments and questions:

President of Badland Shooting Club-Brent Schwan

The area they want to use is already Allowed Use, recreational use. There is no definition of recreational facility in the Ordinance. It should be allowed to be used as a shooting range, there is a fair chance they will walk away from the project, will not do the facility under CUP. They are looking to develop a larger facility, with archery and other activities that would be available for school use and law enforcement use. It would be great for the community.

Brent Schwan: Can we design another zoning district? For shooting range?

Jim: We could. They are not doing this on a whim

Schwan: We are worried about CUP. Game and Fish wants to apply for grants for shooting range. They want one of the locations to be in McKenzie County, in the Watford City area.

Olson: What about industrial with building permits?

Gravos: How about creating a new district?

Ari: We can create an overlay district for this and surrounding land. Change zoning district for the whole buffer and promote for long term use.

Olson: Restricted use district?

Ari: Restrictions on overlay land.

The location of the new facilities would be three and a half miles from the by-pass and My Place hotel.

Best: Looking at an overlay may be the best way to go.

Ari: An overlay could make it an allowed use but still have rules and guidelines.

Their other location had no restrictions on what got built down range. Down range land control would be best way overlay like a floodplain.

Schwan: It will be a million and half dollar to develop this facility we don't want to have to walk away from it.

Best: Time wise how long to come up with a plan?

Jim: We could have first reading in November.

Haugen: A million and a half.... does a shooting range that sort of money for the development?

Schwan: We have \$425,000 but there are grants available to development.

Ari: suggested that we table this until the October meeting; it would have to be a public discussion the land owners will have to come in and voice their concerns.

Motion to: Table By: Olson Second: Best Voice Vote: All Aye

New announcements: Next meeting will be on October 16th, 2017 instead of October 9th, 2017.

Meeting was adjourned at 6:16 PM

October 16th, 2017 Planning and Zoning Board Meeting Minutes

Unfinished Business:

There is no unfinished business.

Minutes were approved from last month.

Public Hearings

1. Arrow Field Services CUP 0015-17-Tabled. In negotiations on improvements.
2. White Wing Ltd. CUP 0013-17-Tabled. Did not have a completed application.
3. Melgaard Const. CUP 0014-17-Tabled. Waiting on road permits.
4. Dry Ground Specialists. CUP ZC 0012-17-Tabled. Violation in section 25.
5. Firearms Facility Overlay District Presented by Jim and Brent Schwan

During September's meeting Ari suggested an overlay district for the gun range. The second draft of the overlay district proposal from Ari unifies firearms facility with shooting range. Combining Archery and shooting.

Ari: If you want to build something in the overlay district, down range from a gun range you have to come before the board and explain why your business won't be a problem for the gun range.

When you create an overlay district you have to let the public know their land is going to be in the overlay district and if they have a problem they have to come in and let us know otherwise there's going to be a gun range and they and their successors cannot complain about there being a gun range.

Olson: So like an airport, don't come moving in there and complaining about the runway.

Ari: Exactly. If you want to build something next to a gun range that has been approved you have to come in and prove that your use is not going to be a problem next to a gun range.

Ari: Overlay district will be a conditional use but the range becomes the only allowed use in that overlay district that's why we have requirements they show what buffer zone is reasonable and so on.

Fleck: What happens if a land owner allows an oil company to come in?

Ari: If it is part of the overlay district at least the land owner will have signed off on it, be coming here to complain or not coming here to complain. Such companies shouldn't be able to complain.

Fleck: So are you talking two sections will be two miles?

Ari: That is actually up to each application for this district overlay. They have to show the buffer zone is reasonably adequate for the use they are going to do. It allows the County Commissions to decide what

a reasonable buffer zone for the application is. The applicant has to explain why the buffer zone they've selected is good enough.

Olson: This is regulation not proposed to the application?

Ari: Your right, I tried to make it generic so that it applies not just to the current application but to any application for a gun range.

Best: In the research that was done is there a fair amount of design specs out there?

Jim: Yes.

Jim: Before the sheriff was able to put in there, we required they go through an engineering company who did that research but there are general standards for the type of use. An archery change has a much smaller area than a .50 caliber.

Ari: I have allowed to the possibility of any kind of shooting range up to military grade artillery shells.

Shari printed off and handed out Ari's 'Proposed Zoning Ordinance Amendment' with blue line showing changes from previous proposal.

Olson: Is this the first reading then?

Jim: Century code says there are not two readings that are required on this. If the board approves this language there is a 30 day waiting period after that.

Comment from audience:

Brent Schwan: The theory of an overlay district in reality we're fine but some of the requirement can work but some not. The requirement that the range be attended at all times based on the language would be a deal breaker. Section 3.12.8 subsection 4. I think one of the things that happen with firearms is we get an unreasonable expectation of their danger. The vast majority of shooting ranges in North Dakota are unattended shooting ranges, where people are allowed to come and go. Based on this we would virtually have to have a range officer on each range anytime people have access to the range. That will cost too much and it doesn't really hold muster as far as the safety concern. Roughly fifty shooting ranges in North Dakota, I only know of three of them that are attended and those are commercial ranges. So 90+% of ranges in North Dakota are unattended where people just come and go. That doesn't mean we're going to have a free for all, we certainly have things in line, from a safety stand point but having an attendance there at all times, it's going to be very difficult. In all honestly it may be a deal breaker because the cost would be so great. In the past twenty-five years there's been one fatality in a North Dakota shooting range. From a statistical stand point that is not a very significant number.

Olson: I'm reading it differently, from the way I read it, it is saying there should be an adult there at all times. So if there should be kids shooting at the range there should be adults there, I don't read that as you should have a certified range officer on site.

Ari: My intent here was actually to write into requirements that an employee of the range be present. Whatever you direct me to the county commission should be based on your vote. There are three possibilities here; one is require a range safety officer, one is to not require any attendance or the third option is to only give access to adult so if there are children they'd be with an adult.

Fleck: Is this going to be members only?

B. Schwan: No.

Fleck: So if anybody can come in that's going to be a reckless deal, isn't it?

B. Schwan: Part of the thing we run up against is if we getting matching funding from Game and Fish Department it has to be a public range, there has to be public access to it. However we've been looking into systems that require, as you enter the facility you'll have to be photographed, you'll have to sign a waiver and if you haven't previously done so you're going to be forced to watch a safety video prior to using the range.

Ari: How are you going to enforce that?

Jim: Yes, you have to have someone in attendance to enforce that.

B. Schwan: We'll have security cameras and occasionally we'll have people out there but the requirement of attendance just doesn't pass a safety muster test.

Brent Schwan handed out an article from February 8, 2017 by Holland & Knight LLP titled "Seventh Circuit Strikes Down Zoning Regulations and Age Restriction Governing Shooting Ranges".

B. Schwan: I think there are somethings that are really, really important that they ruled on already and I think that one of the really important things that they ruled on is that the ability to achieve and maintain proficiency with a firearm is a core right protected by the second amendment of the United States, of the Bill of Rights. It's a core right, restrictions on a core right have to have substantial justifications. He quoted highlight from the article. Evidence doesn't back up that attendance at a range improves safety in any way, shape or form, right?

Olson: Are you opposed to having a standard that requires an adult be present if there are minors?

B. Schwan: No, I don't think we are opposed to that. We wouldn't want unattended minors.

Jim: I don't know how you really monitor that without someone on site.

Ari: Ultimately what we're looking at here is, we want to prevent reckless people from using the range and if someone does recklessly use the range we want to know who it was.

B. Schwan: Right.

Ari: I think that the past range would've had few problems if there was some way to know who was causing the problems.

B. Schwan: No. It is a matter of fact we had cameras there, the one incident where we did have an issue we had the people on video; we had their license plate on video. We turned that video to the sheriff's department and nothing was done with it. What more can we do from our stand point?

Ari: That's a valid point.

B. Schwan: Our theory is that if you have a combination where people know they had to sign in and they know that their picture was taken and there is a time frame there. We took our security system, the cameras from the old range and obviously we'll put another system in on the new range. I don't see we will have a lot of problems and if we do we'll have it on camera.

Ari: Once you have your gun range your neighbors few rights to use their own land, ultimately with zoning that's what we're always concerned about is reasonable restrictions on use of land. We have to make sure our regulations have a reason behind them that makes sense. We can't say no more than a hundred yard range because no one can shoot more than a hundred yards, that's unreasonable. We can say that the range has to have controlled access because we are allowing this range to take away neighbors rights we need to have some controlled access to protect the safety of the neighbors that are already not able to use their land as they see fit. I think some restrictions on the range are appropriate, I don't know the where the line is. I think attendance is a gray area on that. I don't know what politically what we want to do, that's not my job thankfully.

B. Schwan refers to the article he handed out again, referring to the zoning regulations on page 2.

B. Schwan: We are talking about putting a gun range in the middle of nowhere. I don't disapprove of the overlay district; I think that's fair, I don't have a problem with that.

Olson: Well this overlay district is an attempt to cater to you.

B. Schwan: I understand. But let me ask you this; what's stopping any of us right now from walking over to that property and shooting whatever firearm we want to. Not a thing. With the approval of the land owner I can bring forty people out there tomorrow and shoot to our hearts content. Right? All we're trying to do is organize this.

Olson: You are asking the county to also take some of that burden and responsibility.

B Schwan: Of course not, why would you have any burdens.

Shari: Can I bring this back to zoning perspective? There are zoning laws throughout the country having to do with noise issues and that's where I think some of the neighbors would have issues. If they live in an approximately of one or two miles you then have noise complaints.

Best: You said 3 of about 50 ranges are attended, what do the other 47 do to control access and maintain safety.

B. Schwan: Nothing. The range in Williston, people are free to come and go at will. There is nothing there, they have rules posted, and that's it. There are no cameras there, there is no restricted access.

Anybody of any age can go in. I'd have to look at regulations; they may say no unattended people under 18.

Ari: Are you going to have an insurance policy?

B. Schwan: Of course we're going to have an insurance policy.

Ari: Is there a reason you can't indemnify the county?

B. Schwan: I don't know. The reality is we're probably going to be looking to the NRA for range insurance. I don't know if that is an inclusion with that kind of insurance or not.

Ari: The purpose of this is to take the .001% chance of anyone ever suing the county over an injury that happens at the gun range and turning it into a 0% chance of the county having to build a defense.

B. Schwan. 3.12.8 #6 is a little vague to me, what is defined as adequate security measures?

Ari: A security plan, so security cameras are pretty good.

Jim: Keeping the recordings for a certain period of time so if there is a problem the sheriff's office can go and look.

B. Schwan: Number 7 obviously, is it adequate enough to have the numbers of the officers for the shooting club on hand with the sheriff's department? Nobody is accessible 24 hours a day 365 days a year. Nobody in this room nobody I know of.

Ari: You might be able to have an agreement with the sheriff's office dispatch or the county emergency management or someone like that. That that number becomes THE contact number and that person is responsible for following up and getting a hold of someone with responsibility for the range. What I don't want to see happen is you post twenty different phone numbers out at the range, I'm out there and there is a problem and I'm calling different numbers until someone picks up and all of you thought it was someone else's responsibility that weekend. With safety issues like that the goal I had was to have a single point of contact to the extent possible, I don't know if that's something you are capable of arranging or not but that was the idea.

Fleck: Is there a contingency if there is a problem down the road that we can amend it?

Ari: As long as they comply with those performance standards we can't take it away. We can't amend it; we cannot do anything but enforce those standards.

Ari: Go ahead and strike 3.12.8 #4. 3.12.6 #7 which is the application process to provide all regulations we can work it into there. Strike 3.12.8 #3

Best: Hypothetically let's say the facility doesn't operate to performance standard. How exposed is the county then to a secondary lawsuit, is the performance standards are not being met?

Ari: If we don't know beforehand we are not liable. If the performance standards are not met on Tuesday and someone gets blown up and we find out on Wednesday that someone is suing the county that case has no chance. If the performance standards are not being met on Tuesday, Wednesday, Thursday and the next 365 days and we say yeah that's not a problem just do your thing and there's a bunch of emails between the county officials saying we're not worried about what happens at the gun range, we don't care then the case becomes strong. There is not set line on where the county needs to be worried about performance standards.

B. Schwan: That's why I had a problem with that; there is virtually no chance of someone suing the county.

Ari: If you read 12.3.3 the first section it states the degree of protection required by this ordinance is considered reasonable for regulatory purposes and is based on the discretion of McKenzie County.

Shari: Going back to commissioner Bests question, what recourse does the county have if they are not following performance standards?

Jen: I have to enforce the standards of our ordinance, each district has standards.

Ari: We can sue for injunctions for them violating performance standards. Jen would have to make sure they are and if not she'd have to write it up and contact me. It could be a zoning violation.

Jim: I still have some concerns, I'm up for doing this but I can still have some concerns; one you're saying we're going to have a top notch facility; we're going to have the youth programs and shooting. On the other side I hear we don't want to man it, we want it open whenever people come. There is a disconnect in my mind. Is this going to be a facility that's strong and inviting for the safety and the good promotion of gun rights? I'm hearing both sides and its leaving me a little uneasy.

Veeder: Jim I get what you are saying but we don't want to penalize someone who's trying to contain it. Now it's a free for all, people go shooting everywhere. We don't want to require them to do more than they have to do.

Motion to Approve: Gravos Second: Olson Voice Vote: All Aye

Archery Range in the AG district.

Motion to approve: Olson Second: Gravos Voice Vote: All Aye

Meeting adjourned at 6:30 PM

Planning and Zoning Commission Minutes

November 13, 2017

Meeting was held at the McKenzie County Courthouse in Watford City, ND and called to order at 5:01pm.

Members present:, Bethany Devlin, Les Haugen, Vawnita Best, Jeremy Olson, Aaron Gravos, Butch Fleck

Absent: Paul Wisness, Kris Mrachek and Gene Veeder

Staff Present: Planner and Code Enforcement Officer, Jennifer Peglau; Administrative Assistant, Peyman Kadir; Building and Planning Director, Jim Talbert; Planning Attorney, Ari Johnson.

Others: See sign in sheet.

Minutes of October 16, 2017 were presented. **Motion to APPROVE minutes: Fleck, Second: Best: Voice Vote: All Ayes**

Unfinished Business:

None

Public Hearings:

Item 1: White Wing Ltd. CUP 0013-17 - The Applicant is requesting an oil storage facility with a capacity of Sixteen (16), 400 barrel tanks.

Jim: They originally had estimated that there would be a thousand barrels a month with an average of about two truckloads per day. In the report or in my recommendations I have increased that to four and said that if it gets to be more than four I would ask that they come back before the board. The site will have to adhere to the rules of the highway corridor district which is the heavier landscape and buffer area there. They would be coming off of 85 and then backtracking on a side road there. There are no pipelines currently there. We are recommending approval of this project; you will see we have conditions that are fairly standard, one that I wish to bring to the attention of applicant, number five talks about mag-chloride on that road coming off of 85 and on to the side road. You are required to apply it twice a year, once by the end of May and the other by the end of August each year. We don't anticipate any odors emanating from this facility; we have talked to the state health department.

Olson: Any questions from the board?

Fleck: Is there room to put that many tanks?

Brent Lansberg: Yeah, we might triple the tanks, just to give us room on the side but I think there is enough room. We're not going to change anything.

Jim: Brent do you know what the state requirement of the separation of those tanks are, is it ten feet?

Lansberg: I'm not sure.

Jim: Whatever it is I assume you will adhere to that?

Lansberg: Yes, we will.

Best: Mr. Chairman, Mr. Lansberg what other application do you need to maintain and what other agencies do you need to maintain compliance with?

Lansberg: As far as other approvals besides here, we need to apply for emissions.

Haugen: What did you call it, oil blending?

Lansberg: Yes, I call it all spec oil, somethings that are outside the perimeter range of WTI. So lower gravity and higher gravity are outside that range, a lot of times those might be in smaller, it's not going to be, typically it wouldn't be a 200 barrel or 240 barrel tank that you would normally see, which is why there are a couple truck a day.

Haugen: Is there any salt water being separated from it into separate tanks?

Lansberg: Very little. We wouldn't expect any water, overtime there probably will be a little here or there that we would skim off and send to the disposal well. This is not a separations treatment facility.

Olson: Just for the record my brother owns the land, so I won't be voting.

Jim: I did have a question here sent in by our emergency manager, she wanted to understand about primary and secondary containment, as far as what your requirement is there and what you are doing?

Lansberg: We would have primary containment, which would be aligned around the tanks themselves. As far as secondary there wouldn't be a secondary containment.

Jim: So it's strictly a primary and is it a 110% of all tanks?

Lansberg: I will have to check with the department of health about that. I'm not sure that crude has the same percentage.

Jim: I'm thinking that crude is a 110%.

Olson: If I may, it is a 110%. That's half of the largest tank plus 24 hours of production plus a ten year rain plan.

Jim: So it's a 110 of all sixteen barrels.

Olson: No, it's a 110% of one.

Jim: The other thing is you had written to her that you are not required to have a SWPPP? I was under the impression that anytime there is more than an acre that's disturbed a SWPPP was required by the state?

Lansberg: I talked to Mr. Grossman at the state and because it's an existing or former existing oil well pad, since we're not disturbing anything he said we would not have a SWPPP requirement. There is an email from him that Shari has.

Jim: I guess I'm just expressing some concern if there is a spill or something that happens on site or it rains heavy it affects the Mr. Olson's land.

Lansberg: Yes, we will have the containment and we will also have spill control in place as well.

Jim: If you can just double check that and get back to us.

Lansberg: Yes, I will.

Olson: Any other questions? Ok we will open it up to the public comments.

No public comments.

Olson: Any other comments from the board or questions?

Best: Mr. To clarify, who is responsible for the design and construction of the site and its element?

Lansberg: The only construction would be of the tank battery itself and so that would be something we'll discuss with the department of health.

Best: So you're entire permitting is under the department of health, both your emissions and your site plans?

Lansberg: I'm not sure what you are referring to in terms of everything but the construction of the tank battery itself would be the department of health.

Jim: Just to clarify I believe the site plan falls under our jurisdiction. The department of health is looking at fairly narrow criteria.

Jen: What are the procedures there? On this it says it is going to be a storage facility and then I have also heard that you guys are going to treat the oil and then ship it back out?

Lansberg: There is no treatment only blending. Essentially the only activity there is trucks coming, unloading and then when we would go to sort of make a more marketable load of oil.

Jen: And you do it right there in the tanks?

Lansberg: Right, so there would be a separate tank for the blending.

Jim: One of sixteen.

Lansberg: Right.

Comments from the public;

Jesse Miranda: My question is with lower gravity and higher gravity products in terms of condensate on the higher gravity end. Typically really thick gravity oil contains H₂S. Are you going to be dealing with any H₂S over there?

Lansberg: We won't deal with H₂S but if we do have it we can treat it with chemicals.

Jesse Miranda: And the second part is how would you be handling the high vapor pressures that are containing in condensate which comes from NGL and natural gas?

Lansberg: That would be for the department of health to

Jim: Mr. Miranda I can tell you today I spoke with Dale Patrick of the state health department and asked that question about H₂S gas and he was saying there is very little if any H₂S gas associated with this facility. That was a good question.

Best: Mr. Chairman, probably a question for staff but I've been on this board for three years and I haven't heard of an application like this. How many of these types of operations do we have?

Jim: This is the first that I am aware of.

Best: The site plan is the counties responsibility none of this goes through NDIC or any component of their site plan?

Lansberg: To this point they haven't planned a review over this.

Olson: Because it is not a production facility.

Jim: It is my belief that NDIC does not hold jurisdiction here, the department of health does and as such we also have jurisdiction.

Best: Ari have you had any applications similar to this in Dunn county?

Ari: Not that I'm aware of, no.

Jen: If you are possibly going to take H₂S and its right there on 85 what kind of safety precaution are going to be taken?

Lansberg: We would have a safety procedure for H₂S but we are actually very familiar with H₂S and have a system that actually we can go to site and take H₂S out of oil. But in this kind of situation where there is very small batches, there are chemicals agents that reduce H₂S more or less instantly and we would just batch it.

Olson: Would you know that before it came in?

Haugen: Where are the very small amounts of oil coming from? Is it at the end of someone else's run?

Lansberg: We have people that we work with, mostly trucking companies that might get stuck with some

Olson: It would be rejected loads basically, right?

Lansberg: Yes, it would be rejected loads. Partial loads that they need to pick up from somebody who needs off their site. Sometimes they have to take it to a waste stream facility where they are paying to get rid of it.

Haugen: If it is a rejected load, why are they rejected?

Lansberg: From a gravity perspective, it has to be in a range of gravity.

Olson: Some of the stuff is not net band quality. It's not in the range, some of it is low gravity, some is high gravity.

Best: Mr. Lansberg, I'm looking at the eleven conditions of the permit, do you have issues with any of them?

Lansberg: I don't.

Best: What is our process for the construction specifications?

Jim: That actually comes from the state.

Best: So the department of health deals with emissions and they also check the site plans and specifications?

Jim: They will come and inspect the site to make sure it is adhering to all state standards.

Best: So the design on construction compliance would fall under condition number four?

Jim: That is my belief, yes.

Ari: I do want to point out something, I was just doing some search because it did sound familiar, in August you did have a meeting in Dunn County it was not a zoning meeting though I think it was with the department of health meeting. Is that a similar process to what you are talking about here?

Lansberg: No, we have a tank cleaning operation and with that you have to have a T-norm** license to do that. That was totally separate.

Ari: Ok, I wanted to point out that they have been in Dunn County but it wasn't a zoning thing and it wasn't for this.

Olson: Any other comments or questions? Is there a motion?

Motion to APPROVE: Gravos, Second: Best, Voice Vote: All Ayes

Item 2: Firearms Facility Overlay District- This amendment replaces the existing regulations of all types of firearms facilities with an overlay district that is intended to harmonize and protect all uses of land in light of the unique nature of such facilities.

Jim: If you recall this was before you last month and with favorable recommendations it went to the County Commissioners, there were some questions and issues that were raised, not on whether there should be the facility; everyone seems to be in favor. This isn't for the specific site. Tonight is strictly for changing the zoning ordinance so that they can make an application. Everything we talk about here tonight is not site specific this is ordinance specific. What we are going to require of any facility that comes in. Just FYI we have a group that is ready to step in as soon as this is approve to make that application.

Olson: What are the main changes since our last meeting?

Jim: There really have not been any changes.

Ari: I made changes and I sent them to you. I will tell you the sustenance change and that is one of the primary concerns that the board of County Commissioners had was that we were possibly restricting farming; agricultural use of land within the district and that was not our intention. It's just the fact that since we can't restrict farming I didn't bother mentioning it. So I've explicitly made it an allowed use to conduct agriculture in the restricted, basically in the buffer zone. We can't say they can't do that anyhow.

Best: Ari if I may, the concerns of the commissioners that day was not knowing if this ordinance would restrict the allowed use in the AG district and the other one was simply we were still getting clean copies the morning of, of the ordinance and we wanted to make sure it was fully vetted. We wanted to make sure the public was invited to come and participate in an informational hearing process because of a lot of what happened with our comprehensive text change to our ordinance.

Ari: I don't know if what you have in your packet is the most recent version. The change 3.12.4 Permitted uses, now it has a list.

Jim: What's being proposed here is to create an overlay district and we don't determine a size in the ordinance that will be based on the applicant and the types of uses that they have. Once that overlay district is created any other use in that overlay district becomes a conditional use, there are no other approved uses, everything becomes a conditional use.

Olson: An overlay district is not an unusual thing; we have them for floodplains, highway corridor districts and airports. Specifically I was going through this 3.12.8 sub 2 it says; "Evidence that the proposed use will, if all currently existing or approved firearms facilities within the district are operated according to their regulations, result in an unreasonable risk to any person or property upon the parcel of land where the proposed use will occur." Should that read 'not, will not'?

Ari: Yes, it should read will not.

Olson: The other thing just for clarification, on the last page under definitions for firearm on the second line where it says excluded should that be included?

Jim: After reading the century code it should be excluded, what's being excluded in the century code are rifles and shotguns.

Ari: Short barreled. The national firearms act of 1934 where you have to get a tax down to have a short barrel rifle or shotgun, those are excluded from the State codes definition of a firearm and I wanted to include them for our purposes. Still have to follow the federal law. I didn't want the possibility that someone is out there having a shooting range specifically for short barrel shotguns, rifles and machine guns that slipped through the cracks on what we defined here.

Olson: So effectively they can as long as they are legal.

Ari: Yes, got to follow all the law.

Olson: Alright go ahead and open it up for discussions. Members, staff any comments? Any comments or concerns from the audience?

Comments from public;

Brooks Kummer: I'm the landowner

Olson: Keep in mind this is just on the regulation not on the property.

Brooks Kummer: I understand that. The question that both Brent and I had was how did authorize the use of the gun range for the law enforcement where you didn't have anything in place to do that?

Olson: That was a conditional use permit.

Jim: It is not in the ordinance that was an oversight that I made. It should have required the same or something that came before us here.

Kummer: We've been trying to get this thing since June and that was part of stumbling block that we were having.

Best: Brooks to clarify though the Sheriff's department shooting range and the PDs shooting range they did go through a conditional use permit and they hold a conditional use permit which likely would have happened with your application as well had we not gone or had Jim not gone and dug into the ordinance.

Olson: The reason that we are doing the overlay district was to not have conditional use permits. One of the concerns you guys had was what if someone comes in and you had the same situation as you had by the cemetery and getting kicked out. This is to protect you.

Kummer: Yes and it is a sizable investment. We are looking at close to two million dollars when it's all done. That was our main concern. We just want you guys to know that this isn't a for profit when we apply it as a 501Z, we are not trying to make money here, it's just to give the gun owners of this county a place to go their firearms safely.

Olson: I don't think anybody here is against that, we're just trying to do it in a way to protect you, protects the future facilities.

Jim: There were discussions brought up concerning from a safety stand point whether the site should be manned. I like the idea of a manned site; I know Brent has expressed concern, I understand what he's saying and I know that there are many facilities including one in our own county that is unmanned.

Kummer: It is not going to be manned but it will be advanced and we will have a set up so that if somebody is going to use it they are going to have to have a card and it will be all stamped so we know who has been there and what's going on. I'm as concerned as anybody because I rent all of the land a quarter mile to the east and all the stuff north of that is vacant farm land

Jim: My concern was not for the avid hunter and shooter.

Kummer: That is why we are going to fence it and we will have a gated facility, to get into the facility you'll have to have a card from us. Also we are looking at one of the gals out there who was interested in looking out for us and seeing who is coming and going.

Jim: I want to be careful that we don't get too much into your specific site this is just overall. Have you had a chance to read through it? I want to know if there are any concerns as they presently stand in the ordinance.

Kummer: I don't think so. I know there are some changes Ari made because of the concerns from the county commissioners about land use and agriculture. I'm not concerned about anything else. We were hoping it would have been done by now.

Olson: Any other comments specific to the zoning ordinance?

Will Maguire: A thing of concern I've found with firing ranges and you guys worrying about the safety and security of users also comes to land management that comes with that, clean up and recycling of lead. Is there going to be berms or is it going to be completely indoors as far as taking care of the land it is on?

Olson: That is a plan the applicant has to bring to the board to be approved on a case by case basis.

Jason Gressman: I understand this zoning ordinance of the total, I am direct adjacent to the property of the proposed site. I have some concerns, one thing that stuck out for us is access, how does access work when it comes to residential homes, family homes? Is there anything part of the ordinance that requires an access point or different access point in residential areas?

Jim: Per the ordinance they will have to present a plan that addresses access, addresses barriers that will prevent gun fire.

Kummer: He is actually talking about the road access into the property.

Jim: The road access into the property again will be a part of their plan. We do require that there is proper ingress and egress from the site. When someone is before us and we have layouts my staff will go out and check so that we can make sure we understand how it's all coming together.

Gressman: Sharing that road, the maintenance of it? Where does that fall?

Kummer: I actually own the access for the property and I do have some special use for him and some other land owners but I have total access to it. They do have an easement to use their vehicles in and out but that's it.

Jim: As far as maintenance and up keep of the road the county has certain roads, typically the mile streets and county roads that have been so designated those are the only ones we maintain, all others are considered private roads which means you get the privilege of doing that maintenance yourselves.

Gressman: So that's just between us and them?

Kummer: Yes, it is a private road.

Gressman: Part of my concern with it coming so close to our house is the amount of use of it is going to be a lot and so my question is, is there a possibility for access to just be moved a little further down in different places?

Jim: Once we have a plan from them I would invite you to come back, if you would give me your name and number I'll be happy to inform you when the application is made, it's all public record we'll be happy to provide you with any information.

Gressman: And noise? Is there within the ordinance certain working hours?

Ari: Case by case, like the indoor shooting range with sound proof walls they can operate twenty-four hours if they're staffed. This type of facility where it's going to be daylight use only presumably it's going to be sunrise till sunset or something like that. It will be case by case. If they come in and want to be open until 11:00 at night in the summer time and you are concerned about the noise please come and tell us at the time. And you will absolutely get notice of it because one of the requirements here is that everyone affected by it and within a mile radius of being affected by it has to be notified.

Gressman: The safety aspect of people coming and going and in and out because regardless of people being members I've seen facilities turn into junk ranges and that something we don't want to see happen moving forward.

Jim: Once they bring forth a plan we can address these issues a lot clearer, right now we have to wait and see.

Best: Mr. Gressman we appreciate you coming forward with your concerns on the application, please make sure as the application comes forward you continue to stay involved, we make sure this is workable for everybody. To maybe help clarify I guess I would make of this sort of like this the tax code and so each individual applicant will work within this code to essentially write an operation permit that works for that use that area and the surrounding uses and surrounding areas.

Jim: Then it has to be approved by this board and on to the county commissioners.

Fleck: How far of the county road is this going to be, Brooks?

Kummer: We're about three quarters of a miles north. Nothing will be in the south at all from where they're at. There is a natural indentation there that will contain 99% of the noise.

Olson: Alright, are there any other comments or questions regarding specifically the proposed ordinance amendment only, not in interest to the application.

Motion to APPROVE: Fleck, Second: Gravos, Voice Vote: All Ayes

Adjourned at 6:00PM

Planning and Zoning Commission Minutes

December 11th, 2017

Meeting was held at the McKenzie County Courthouse in Watford City, ND and called to order at 5:01pm

Members present: Bethany Devlin, Paul Wisness, Les Haugen, Kris Mrachek, Aaron Gravos and Butch Fleck.

Absent: Vawnita Best, Jeremy Olson and Gene Veeder.

Staff present: Planning and Zoning Director Jim Talbert, Planner & Code Enforcement Officer Jennifer Peglau, Planning Attorney Ari Johnson and Administrative Assistant Peyman Kadir.

Others: See sign in sheet

Minutes from the November 13th, 2017 meeting: **Motion to APPROVE minutes: Gravos, second: Les Haugen, Voice Vote: All Ayes.**

Code Enforcement:

Jen Peglau: I have passed the State Code around; there has been a lot of misunderstanding out there. There is a lot of people that are building houses on forty (40) acres thinking they don't need a building permit; that is not true. Anything that someone is going to live in needs a building permit. In the State code it does list exemptions and the ones that are pretty common are, (State Code 54-21.3-04. Exemptions), (2)(a) "Buildings which are neither heated nor cooled." (3) "Any building used for agricultural purposes, unless a place of human habitation or for use by the public is exempt from this chapter." A lot of people are saying I have heard from the board, I've heard from the Commissioners that we do not need a building permit if its forty (40) acres or more, not true. So if you everyone can help us get the public educated on this subject that would help and save our residence a lot of money.

Unfinished Business:

None

Public Hearings:

Item 1: 4T Construction 0013-17 Zone Change: Applicant is requesting a zone change, from Agriculture to light industrial to support the current land use.

Jen Peglau: Property is located in Arnegard section 25, John Gulley was in a few months ago and zone changed two of his parcels adjacent to this one and wanted this zone changed one at the same time, is now here with a correction. He wants to change it from AG to light industrial.

Jim Talbert: This was our oversight, when we advertised we didn't mention this one parcel

Jen: In our comp plan it is a transition area, currently it is an empty yard, it does go with the surrounding neighbors and we would recommend approval.

Mrachek: Any comments or questions from the audience? No? Any other comments from our board?

Motion to APPROVE: Gravos, Second: Devlin, Voice Vote: All Ayes.

Item 2: Delmer Rink 0014-17 Zone Change and Comprehensive Plan Change: The comprehensive plan change is required with the applicants desire to zone change. The applicant is requesting a zone change, from Agriculture to Light Industrial to support current land use.

Jen: We are asking for a comp plan land use change, it is required with this applicant because he would like to zone change from AG to light industrial. The applicant owns the whole section, currently there is workforce housing that has a CUP that is in good standing. That has been parceled off and we are going to let it remain as a CUP, it is in good standing and the reclamation bond is there. They are also parceling off where their shop and a laydown yard is, that is what they want to change to light industrial.

Jim: We had to change that parcel line so that it encompasses the entire parcel. Again nothing new we are just trying to bring it to what it should be already.

Jen: There is an existing house, which will remain on 40 plus acres. So basically what we are asking right now is just a zone change from agriculture to light industrial for where the shop is and that is 9.96 acres. We are recommending approval.

Jim: This will be the first comp plan change we will make since adopted, it's been wonderful. This is an existing facility; he is rearranging parcels so that they work properly with the property.

Mrachek: Are there any comments from the audience?

Roger Cymbaluk: I do a lot of work for the Rinks, Delmer and Marcy. How this all came about, they are doing some estate planning. As they started to look at these properties, those two specifically, find out they are not in compliance, one is being used as an industrial yard and shop, the other for housing.

Jim: The correct term is nonconforming, they are in compliance but they're nonconforming.

Cymbaluk: Where the yard is, the Rink construction is actually part of the Rink ranch. Running a construction business out of their farm they didn't know. That is going to be cut off and put into an LLC, held back and then lease back to the construction business. The housing, there are ten units along the county road. When we brought in the original site plans, it was recommended that we expand it to accommodate draining fuels. We are trying to do everything that kind of meets what makes sense.

Haugen: The 9.69 acres, that is not part of the 40 acres, am I correct?

Jen: Correct.

Cymbaluk: Actually the 40 acres that Jim is talking about, the 9.69 acres is what we had originally with the access off the County Road, we expended across the fence to accommodate the draining fuels in there. The 40 acres is going to be another separate yard. Then because the access has been running through the yard up where Delmer has his house and they've got some farm buildings. What was recommended was that we create a 40 acres parcel which incorporated those buildings so that we can have access to a road which we intend to do, unless I'm wrong?

Jim: No.

Cymbaluk: This will be a separate commercial or light industrial yard and for the 40 acres we have designed some easements that would fall into place. That will incorporate the buildings and incorporate the 40 acres where Delmer's house is and where his children would be at the end of the day.

Fleck: Since that has been there forever that didn't need to be incorporated in the 40 acres, did it?

Cymbaluk: The reason we went that route was because he leases the ranch out and he's going to end up leasing those lands so just for liability purposed and some other purposes we are breaking that all up.

Jim: Where there is an existing home, when we were playing around parcels, I tried to keep it so that we still maintained our zoning requirements and the 40 acres was a fairly easy thing to meet since he owns the whole section.

Cymbaluk: Going back to the liability issues this really makes sense at the end of the day, it should have been done when they first built it but there was no zoning at that time.

Jen: So really all we're zone changing is, where the shop and construction area are?

Jim: Everything else stays the same.

Jen: And they are still going to have their yearly review on their workforce housing, there's still a bond in place.

Cymbaluk: I think that is a \$75,000 bond?

Jen: Yes.

Cymbaluk: That bond will remain in place.

Mrachek: Any other comments from the audience?

Motion to APPROVE: Fleck, Second: Haugen, Voice Vote: All Ayes.

Item #: Mak Properties PUD 0002-17: Applicant is requesting a zone change to a Planned Unit Development. The area proposed to be rezoned from the existing agriculture to a mixed use of light industrial and R-2 zoning. The zoning will include six (6) parcels.

Jim: This is one that we have worked with for quite some time. This is between 85 and 125th closer to the highway 85 site.

Jen: It's Fertile Fields, currently Fertile Fields.

Jim: They are looking to pick up some additional property and I just thought it was a great opportunity to make changes, this is a transition area within the comp plan, to create another PUD which we have done for Youngquist and ND72. All this is existing already, all they are doing is coming and we were looking at access and trying to reduce it in conflux. There is an existing shop on one location; they are looking to pick up two lots which would be used for parking. There is an existing home and as part of the PAE requirements we were looking at creating some open space and some separation from the more industrial uses to what are more residential type of use. There is

an existing road that comes through and accesses the existing home, that will be maintained. This is a group we have been working with and they have gone above and beyond their requirements. With their last application, which was probably a year ago, they put in trees around the property to help try to make it a nicer atmosphere than we are used to seeing. We recommend approval of this PUD and I believe Scott Hamstead is here representing the applicant tonight.

Hamstead: We have been working on this since the spring time, just to reaffirm what Jim was saying, the driveway will go through the lots to the home. The whole lot will be kept as residential, no plans to do anything with it. The majority of it will be a screen buffer and a little bit of green space for the workforce folks to use it. At the current time none of this is occupied and hasn't been since 2014. There is currently nobody living there. There is currently a CUP in place for the other 10 acres.

Jen: Which has a reclamation bond on file.

Hamstead: One of the main reasons for them wanting to do this PUD is to lighten their stress a bit and have something more permanent like PUD zoning in place, so they don't have to keep stressing out once a year about their CUP being pulled and it is probably less administrative burden for staff as well. Eric Kirby is also here, he is the engineer is anyone has any questions for him.

Mrachek: Any comments or questions from the audience?

Kirby: Unless there are questions about the water and sewer systems?

Jim: Do they work, Eric?

Kirby: Yes they do.

Jen: They are not updated yet though but they are updating them. They cannot occupy until we get a sign to permit.

Kirby: I have certified the waste water system and the health department could be reviewing right now so it should be shortly, should be all signed off. The system does work.

Jim: This applicant has been excellent to work with over the year; they have tried to do everything we have requested them to do.

Fleck: Do they have their own water well?

Jim: Currently I think they do have their own well.

Kirby: Yes, they do have their own water well.

Jen: They just had to do a couple of things to update it and it is in their conditions, they are working on it.

Mrachek: Any other comments from our board?

Motion to APPROVE: Gravos, Second: Wisness, Voice Vote: All Ayes

Item 4: Synergy Services-Conditional Use Permit-Violation: Applicant has not met the conditions of CUP 0042-13 approved September 4th, 2013.

Jen: CUP was approved September 4th, 2013; it was one of the ones that did not have a reclamation bond. Staff worked with him and we understood the slow down and basically put him on a hold period. Not only did owe the State temporary housing fees, he owed us a bond; his weeds were out of control.

Jim: This is the facility with the skids right there by the shell station on highway 85.

Jen: There was a letter sent April 29th, 2017 that said:

April 29, 2017

0042-13 CUP

**Synergy
Jack Arbess
475 17th Street
Suite 700
Denver, CO 80202**

RE: Violation of Conditional Use Permit

This is to inform you that the Conditional Use Permit that was issued on September 17, 2013 is in violation due to conditions not adhered to. From our meeting on March 16, 2017 we have come to an agreement of six month hold period;

- 1- Six month hold starting March 1, 2017 through September 1, 2017 with no occupancy of any units.***
- 2- Temporary Housing Fee's (ND State Code) 2017 will not be actively collected during the "hold" time.***
- 3- The reclamation bond is also put on "hold" due to the fact there will be no occupancy of any units.***
- 4- At the end of six months (September 1, 2017,) if the Reclamation Bond and Temporary Housing Fee are not submitted into McKenzie County Planning and Zoning Department. All of units must be removed no later than September 30, 2017.***
- 5- At any time within the "six month hold period" you wish to lease out units, the reclamation bond and Temp Housing Fees need to be submitted into the McKenzie County Planning and Zoning Department, beforehand.***
- 6- A Reclamation Bond will only be accepted; NO letter of credit or cash in lieu of bond.***

Our goal is to bring companies into compliance not see them go. So at any time you have any questions or concerns please feel free to contact me.

Thank you,

***Jennifer Peglau
McKenzie County Code Enforcement
701-444-7422***

Jen: They are still there so we are here asking for a revocation of the Conditional Use Permit so we can turn this over to Ari.

Jim: We have gone out of our way to try to help these folks.

Mrachek: Didn't their stuff go away and then come back?

Jen: Yes

Haugen: Did all the units get moved by September 30th?

Staff: Nothing. They are still there.

Jen: There's been a private investigator that's been in our office multiple times trying to find out information, apparently the guy still owes for these and they are trying to repossess them.

Mrachek: Any comments from the audience?

Jen: I think we should be aggressive and remove them. Possibly impound them?

Ari: No we don't want to do that. I mean how big is our impound lot.

Fleck: So what is your action? If we revoke them what action are you going to take?

Ari: I'd send them a letter letting them know what their CUP has been revoked, they've got 30 days to have them removed and the site cleaned up or we'll start a lawsuit and I will mark on my calendar day 31 to ask Jen if they've cleaned up, which of course they won't have. I'll start the law suit asking the Judge for an order that they remove them or if they don't remove them to let us remove them and dispose of them and get a judgement against the owner for the cost of doing that. We've done something similar with a smaller situation so it should work out okay.

Fleck: Is that the same owner as Sweet Crude and them?

Jen: The landowner is completely different as these guys.

Ari: Different landowner, different operator.

Fleck: I didn't realize that.

Ari: It doesn't look like it's different.

Jim: When he came to the office, we sat with him, talked to him and tried to work out a solution for them, as we always try to do. I feel like they lied with no intent of doing anything. I'm happy to work with folks but when they lie it's difficult to say nothing.

Fleck: Well and they've had since March to do something.

Jen: Yes, but I did get a phone call from him today and he thinks he has them sold that helps.

Jim: He thought he had that back in April too.

Mrachek: One more time, any comments from the audience?

Motion to APPROVE revocation of CUP: Gravos, Second: Devlin, Voice Vote: All Ayes

Item 5: Manufacture home installment.

Mrachek: You said you wanted to table the last item?

Jen: Yes please.

Mrachek: Anything else that's not on the agenda?

Jim: I don't have anything else.

Meeting was adjourned at approximately 6:00 PM.